John G. Yslas (SBN 187324)
jyslas@wilshirelawfirm.com
Samantha A. Smith (SBN 233331)
samantha.smith@wilshirelawfirm.com
Jeffrey C. Bils (SBN 301629)
jbils@wilshirelawfirm.com
Aram Boyadjian (SBN 334009)
aboyadjian@wilshirelawfirm.com
Andrew Sandoval (SBN 346996)
andrew.sandoval@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff Cedric A. Beaty and Jorge L. Zaragoza Valdovinos, individually, and on behalf of all others similarly situated

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
3/26/2025 7:56 PM
By: Sarah Sisto , Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA – SOUTH COUNTY (ANACAPA)

CEDRIC A. BEATY and JORGE L. ZARAGOZA VALDOVINOS, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

HOMER T. HAYWARD LUMBER CO., a California corporation; UNITED STAFFING ASSOCIATES, LLC, a California limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 22CV04267

Assigned for all purposes to:
Hon. Donna Geck, Dept. 4 SB-Anacapa

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date:	July 11, 2025
Time:	10:00 a.m.
Dept.:	4 SB-Anacapa

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 11, 2025, at 10:00 a.m., or as soon thereafter as the matter may be heard in Department 4 SB-Anacapa of the above-entitled Court, located at 1100 Anacapa Street, Santa Barbara, California 93121, Plaintiffs Cedric A. Beaty and Jorge L. Zaragoza Valdovinos ("Plaintiffs") will and hereby does move this Court for an Order:

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

Pursuant to California Rules of Court, Rule 3.769(d) and (e), 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 informed, arm's length bargaining between experienced attorneys with the assistance of an experienced 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, the Declaration of John G. Yslas, the Declarations of Cedric A. Beaty and Jorge L. Zaragoza Valdovinos, and on 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: March 26, 2025 **WILSHIRE LAW FIRM**

By: ______________________

John Y. Yslas
Attorneys for Plaintiffs Cedric A. Beaty and
Jorge L. Zaragoza Valdovinos

WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

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3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

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Los Angeles, CA 90010-1137

I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs seek preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Labor Code Private Attorneys' General Act of 2004 ("PAGA"), against Defendants Homer T. Hayward Lumber Co. and United Staffing Associates, LLC. ("Defendants"). The proposed Class is defined as all non-exempt, hourly employees who have, or continue to, work for Defendants in California from May 3, 2018 through September 1, 2024. The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of $1,200,000.00, which will be distributed to approximately 731 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 $400,000.00) and up to $35,000.00 in reimbursement of litigation costs to Plaintiffs' Counsel;
3. A class representative service payment of up to $15,000.00 to each Plaintiff;
4. Costs of settlement administration of up to $10,990.00; and
5. Allocation of $180,000.00 to PAGA penalties, seventy-five percent (75%) of which ($135,000.00) will be paid to the Labor and Workforce Development Agency ("LWDA"), and twenty-five percent (25%) of which ($45,000.00) will be paid to approximately 469 Aggrieved Employees who worked for Defendant during the PAGA Period of August 24, 2021 through September 1, 2024 ("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, Plaintiffs request that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as Class Representatives, appoint Plaintiffs' Counsel as Class Counsel, appoint Apex Class Action

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3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

Administration ("Apex") 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 October 28, 2022, Plaintiff filed this action as a putative class action against Defendants 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; and (8) 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 August 24, 2022, Plaintiffs provided written notice to the LWDA and Defendants of their intention to file a PAGA claim. Yslas Decl. at ¶ 4. The LWDA did not notify Plaintiffs that it intended to investigate within 65 days of this written notice. *Id*. Therefore, on October 28, 2022, Plaintiffs filed a separate action alleging a claim under PAGA, Case No. 22CV04265 (the "PAGA Action"). *Id.*

The Parties subsequently participated in a private mediation with mediator Steve Cerveris on September 19, 2024. *Id.* at ¶ 5. The parties negotiated the terms of the Settlement over the next several months, which was finalized in November, 2024. *Id.* at ¶ 7, Exhibit 1 ("Settlement Agreement"). On March 25, 2025, Plaintiff submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 8, 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 $1,200,000.00 on behalf of 731 Class Members that worked 35,000 Workweeks during the Class Period of May 3, 2018 through September 1, 2024, unless

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otherwise modified by the 10% escalator clause. Settlement Agreement at §§ 3.1, 8[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 $15,000.00 to each Plaintiff; (2) attorneys' fees of up to one-third of the Gross Settlement Amount (currently $400,000.00) and reimbursement of reasonable litigation costs incurred by Plaintiffs' Counsel (up to $35,000.00); (3) costs of settlement administration of up to $10,990.00 to Apex; (4) individual class payments to Class Members; and (5) PAGA penalties in the amount of $180,000.00, which will be allocated 75% to the LWDA ($135,000) and 25% to Aggrieved Employees ($45,000). *Id.* at § 3.2. After all requested deductions are made, the remaining Net Settlement Amount is currently estimated to be $544,010.00.

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. Funds from any uncashed checks will be transmitted by the Settlement Administrator to the California Controller's Unclaimed Property Fund in the name of the Class Member. *Id.* at § 4.4.3. None of the Gross Settlement Amount will revert to Defendant. *Id*. at § 3.1.

---

[1] Pursuant to the Escalator Clause, if the number of Workweeks exceeds 38,500 Workweeks (more than a 10% increase), Defendant can either (a) increase the Gross Settlement Amount proportionally for every workweek over 38,500 Workweeks, or (b) Defendant can end the Class Period on the date that the total Workweek count equals 38,500 workweeks. Settlement Agreement, § 8.

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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 litigation costs, and settlement administration costs. *See generally, id*. 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. *See id*. The Settlement Administrator will mail Class Members the Class Notice by first-class mail in English and in Spanish. Settlement Agreement at § 7.4.2.

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

C. Proposed Release

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

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors

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and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice. *Id.* at § 5.3.

Only Plaintiffs will agree to a general release and a waiver of Civil Code § 1542. *Id*. at § 5.1.

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).

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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 hourly, non-exempt employees who have, or continue to, work for Defendants in California during the Class Period. *See* Settlement Agreement at §§ 1.5, 1.12. 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 731 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 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014). Rather, the focus is on whether issues shared by the class members are sufficiently uniform to permit class-wide assessment, and whether individual variations in proof on those issues are manageable. *Id.*

Plaintiffs have alleged that Defendants maintained common employment policies and/or practices that unlawfully deprived Class Members of wages, meal period, rest periods, reimbursements for business expenses, accurate wage statements, and timely payment of wages upon separation of employment. Yslas Decl. at ¶ 10. These allegations present common factual and legal questions of, *inter alia*, whether Defendants applied the same scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies 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 damages and/or penalties. *Id*. These common questions could be resolved using Class Members' time records, payroll records, testimony from Defendants' 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.

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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. *Medrazo v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

Plaintiffs have alleged that they and Class Members were employed by the same Defendant and injured by Defendants' common wage and hour policies and practices, including Defendants' 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 Defendants, Plaintiffs confirmed that these challenged policies and practices applied to Plaintiffs as well as Class Members. *See id.* 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. Declarations of Cedric A. Beaty ("Beaty Decl.") and Jorge L. Zaragoza Valdovinos ("Valdovinos Decl.") in Support of Motion for Preliminary Approval at ¶¶ 6, 7. Plaintiffs have demonstrated an ability to advocate for

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the interests of Class Members by initiating this lawsuit, gathering documents and information, being available on the day of mediation to answer questions, meeting with their attorneys to understand the claims and theories of liability at issue, assisting their attorneys in preparation for mediation, and reviewing the proposed Settlement. *Id*.

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 Representative, and her 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 Members' 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 outweighs any potential recovery. Yslas Decl. at ¶ 10. 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).

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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, Steven Cerveris. 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. *Id.* at ¶ 8. Plaintiffs' Counsel assessed the value to the class claims using the documents and data Defendants 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, employment handbook and policies, job descriptions, and a random sampling of time and payroll records for 270 class members. *Id.*

c. Plaintiffs' Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Wilshire Law Firm. *Id.* at ¶ 1. Plaintiffs' Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 13-24. Plaintiffs' Counsel have been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

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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 ¶ 12.

Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage claims were based on the allegation that Defendants required Class Members to perform work duties before clocking in – both during meal periods and before and after shifts. Employees were regularly required to work off-the-clock, uncompensated, including because they were expressly directed by supervisors to continue working during their meal periods and after clocking out. As one example, Mr. Beaty routinely helped customers fulfill their orders (for 30-minutes to an hour) while he was clocked out for his meal period and after he clocked out from work. *Id.*, at ¶ 12. Based on Plaintiffs' Counsel's analysis, the potential exposure is approximately $1,409,922.00 for these claims. *Id.* However, Defendants have argued that any off-the-clock time was undocumented and unknown to Defendant, and that Defendant was therefore not obligated to pay for this time. 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 was substantial. Accordingly, Plaintiffs' Counsel applied a 70% risk discount to this claim to reach a settlement value of approximately $420,000.00 (or 33% of the Gross Settlement Value).

Meal Periods: Plaintiffs' meal period claim was based on the allegation that Defendants failed to maintain a policy and practice of paying meal period premiums when its time records showed Class Members' meal periods were late, short, or missed. *Id.* at ¶ 14. Moreover, Defendants had a policy of not permitting employees to leave the facility even during meal periods and Class Members were regularly interrupted during meal periods. *Id.* Given these factors, Plaintiffs assumed a 100% violation rate and calculated potential exposure on this claim to be approximately $4,264,755.00. *Id.* However, Defendants argued that Class Members signed meal period waivers

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and on-duty meal period agreements. *Id.* Accordingly, Plaintiffs' Counsel applied an 80% risk discount to reach a settlement value of approximately $850,000.00 (or approximately 70% of the Gross Settlement Value). *Id.*

Rest Breaks: Plaintiffs' rest break claim was based on the allegation Plaintiffs and others were regularly not permitted and authorized to take timely rest breaks. For instance, Plaintiffs supervisors regularly demanded that employees work in lieu of rest breaks — including when they were required to unload merchandise by hand rather than forklift (which took longer and caused them to miss, or suffer late, rest breaks). Additionally, Defendants' policies demand that all rest breaks were exactly ten minutes. Defendants, however, failed to account for ***walking*** time away from their workstations when rest breaks were provided. Moreover, Defendants had a policy of not permitting employees to leave the facility even during rest breaks and Class Members were regularly interrupted during their breaks. As such, Plaintiffs' Counsel applied a 100% violation rate to all shifts over 3.5 hours and calculated a potential exposure over $4,424,838 for this claim. *Id.* Because this claim would have relied exclusively on Class Member testimony, Plaintiffs' Counsel applied an 85% risk discount to this claim to reach a settlement value of approximately $660,000.00 (or 55% of the Gross Settlement Value). *Id.*

Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that Defendant required Class Members to wear acceptable safety shoes otherwise they were not permitted to work. *Id.* Moreover, Plaintiffs and other co-workers were required to wear a uniform, but Defendants neither paid for them or the maintenance of the uniforms. Plaintiffs' Counsel assumed each Class Member incurred $8.33 in unreimbursed expenses per month in calculating potential exposure to be approximately $104,130.00 for this claim. *Id.* 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, Plaintiffs' Counsel could not attribute any value to this claim in terms of settlement value. *Id.*

Derivative Penalties: Plaintiffs alleged that as a result of Defendants' alleged failure to pay all wages and meal and rest period premiums owed, Defendants owed waiting time penalties and wage statement penalties. *Id.* However, Defendants argued that it had good faith defenses that

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made the imposition of these penalties unwarranted. *Id.* Moreover, Plaintiffs could not recover these penalties if they failed to prove the underlying claims. *Id.* Although Plaintiffs' Counsel calculated that potential exposure for the waiting time penalty claim was approximately $1,602,246.00 and approximately $1,380,000.00 for the wage statement penalty claim, Plaintiffs' Counsel attributed a 90% discount to the value of this claim to reach a settlement value of approximately $290,000.00 (or 24% of the Gross Settlement Value). *Id.*

PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendant's potential exposure could potentially reach $11,549,200.00, this not only takes into account "stacking" of PAGA penalties, but also assuming the initial $100 penalty would apply for each of the 12,685 pay periods in the PAGA Period. *Id.* 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.* Therefore, the settlement allocates $180,000.00 of the Gross Settlement Amount to PAGA, which amounts to approximately $14.18 per pay period. *Id.*

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C. The Requested Service Payment is Reasonable

Plaintiffs each seek a class representative service payment of up to $15,000.00 each 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, Plaintiffs 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. Beaty Decl. at ¶ 7; Valdovinos Decl., ¶ 7. No action would likely have been taken by Class Members individually and no compensation would have been recovered for them, but for Plaintiffs' services on behalf of the Class. By actively pursuing this action, Plaintiffs 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. Plaintiffs have provided a declaration regarding their 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 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 as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting this matter with no guarantee of payment. Yslas Decl. at ¶ 18. Plaintiffs' Counsel seeks preliminary approval for $400,000.00 in attorneys' fees, which is up to one-third of the Gross Settlement Amount, and reasonable costs actually incurred in reimbursement of litigation costs. Given the work performed in this matter, the extensive information exchange, and the substantial recovery obtained on behalf of the Class, Plaintiffs' Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas Decl. At final approval, Plaintiffs' Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs.

V. CONCLUSION

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

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3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

Respectfully submitted,

Dated: March 26, 2025

WILSHIRE LAW FIRM

By: ______________________

John Y. Yslas
Samantha A. Smith
Attorneys for Plaintiff Cedric A. Beaty and Jorge L. Zaragoza Valdovinos

WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137