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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSELIN MACIEL HERNANDEZ,
individually, and on behalf of all others
similarly situated,

Plaintiff,

v.

LA BARCA RESTAURANT, an unknown
business entity; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 25STCV25266

*[Assigned for All Purposes to the Hon. Carolyn
B. Kuhl, Dept. 12]*

**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: January 7, 2027

Time: 10:30 a.m.

Dept.: 12

Action Filed: August 27, 2025

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

2 **PLEASE TAKE NOTICE** that on January 7, 2027, at 10:30 a.m., or as soon thereafter
3 as the matter may be heard in Department 12 of the Superior Court of California, County of Los
4 Angeles, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Joselin
5 Maciel Hernandez (“Plaintiff”) will and hereby does move this Court for an Order:

- 6 1. Granting preliminary approval of the proposed Class Action and PAGA Settlement
7 Agreement (“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 Class Action Administration Solutions as the Settlement
12 Administrator; 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 Joselin Maciel
21 Hernandez, the Declaration of Jodey Lawrence, and on all records and documents on file,
22 together with such oral and documentary evidence that may be presented at the hearing on this
23 matter.

24 Respectfully submitted,

25 Dated: August 25, 2026

WILSHIRE LAW FIRM, PLC

26 By: /s/ Courtney M. Miller

27 Courtney M. Miller
28 Attorneys for Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiff seeks preliminary
4 approval of a class action settlement of wage and hour claims, including representative claims
5 brought under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), against
6 Defendant La Barca Restaurant (“Defendant”). The proposed Class is defined persons employed
7 by Defendant in California and classified as an hourly-paid, non-exempt individual who worked
8 for Defendant (“Class Members”) at any time during the period from August 27, 2021, through
9 June 7, 2026 (“Class Period”).¹ The main terms of the Settlement are as follows:

- 10 1. A Gross Settlement Amount of \$240,475.00, which will be distributed to
11 approximately 86 Class Members on a pro rata basis according to the total
12 workweeks worked by each Class Member during the Class Period;
- 13 2. Attorneys’ fees of not more than 33.33% of the Gross Settlement Amount (currently
14 \$80,158.33) and up to \$20,000.00 in reimbursement of litigation costs to Plaintiff’s
15 Counsel;
- 16 3. A Class Representative Service Payment of up to \$10,000.00 to Plaintiff;
- 17 4. Costs of settlement administration of up to \$6,750.00; and
- 18 5. Allocation of \$12,023.75 to PAGA penalties, sixty-five percent (65%) of which
19 (\$7,815.44) will be paid to the Labor and Workforce Development Agency
20 (“LWDA”), and thirty-five percent (35%) of which (\$4,208.31) will be paid to
21 persons employed by Defendant in California and classified as an hourly-paid, non-
22 exempt individual who worked for Defendant (“Aggrieved Employees”) at any time
23
24

25
26 ¹ The Settlement Agreement provides Defendant an option to shorten the Class Period and
27 the PAGA Period, in the event the escalator is triggered. Settlement Agreement at §§ 1.12, 1.30,
28 4.1.1. Prior to filing this Motion, Plaintiff requested that Defendant confirm whether the escalator
clause was triggered, and if so, to advise of its election to either shorten the Class Period and
PAGA Period or increase the Gross Settlement Amount. Yslas Decl. ¶ 36. Plaintiff is currently
awaiting a reply. *Id.*

1 during the period from August 27, 2024, to June 7, 2026 (“PAGA Period”).²

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

11 **II. PROCEDURAL HISTORY**

12 On August 27, 2025, Plaintiff filed this putative class action against Defendant alleging:
13 (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure
14 to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay
15 final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to
16 indemnify employees for expenditures; and (8) unfair business practices (“Class Action”).
17 Declaration of John G. Yslas in Support of Plaintiff’s Motion for Preliminary Approval of Class
18 Action and PAGA Settlement (“MPA”) (“Yslas Decl.”) at ¶ 3.

19 On August 27, 2025, Plaintiff provided written notice to the LWDA and Defendant of the
20 specific provisions of the Labor Code alleged to have been violated, including the facts and theories
21 in support. Yslas Decl. at ¶ 4, Exhibit 1. The LWDA did not notify Plaintiff that it intended to
22 investigate within 65 days of this written notice. Yslas Decl. at ¶ 4. Therefore, on November 10,
23 2025, Plaintiff filed a First Amended Complaint in this Class Action adding a cause of action for
24 civil penalties under PAGA. *Id.*

25 On April 8, 2026, the Parties participated in a private mediation with Russ J. Wunderli,
26 Esq. Yslas Decl. at ¶ 5. The Parties then negotiated the terms of the Settlement which was finalized
27

28 ² See Footnote 1.

1 in May 2026. *Id.* at ¶ 6, Exhibit 2 (“Settlement Agreement”). On August 24, 2026, Plaintiff
2 submitted a copy of the Settlement Agreement to the LWDA. Yslas Decl. at ¶ 7, Exhibit 4.

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

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

5 The Parties have agreed to settle the claims alleged in this case for a Gross Settlement
6 Amount of \$240,475.00. Settlement Agreement at § 3.1. Subject to Court approval, the following
7 payments will be deducted from the Gross Settlement Amount: (1) a Class Representative Service
8 Payment of up to \$10,000.00 to Plaintiff; (2) attorneys’ fees of not more than 33.33% of the Gross
9 Settlement Amount (currently \$80,158.33) and reimbursement of litigation costs of up to
10 \$20,000.00 to Plaintiff’s Counsel; (3) costs of settlement administration of up to \$6,750.00 to
11 Phoenix; (4) Individual Class Payments to Class Members; and (5) PAGA Penalties in the amount
12 of \$12,023.75, which will be allocated 65% to the LWDA (\$7,815.44) and 35% to Aggrieved
13 Employees (\$4,208.31). *Id.* at § 3.2, *et seq.* After all requested deductions are made, the remaining
14 Net Settlement Amount is currently estimated to be \$111,542.92. Yslas Decl. at ¶ 20.

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

20 Individual PAGA Payments to Aggrieved Employees will be calculated based on the
21 number of PAGA Pay Periods worked by each Aggrieved Employee during the PAGA Period. *Id.*
22 at § 3.2.5.1. For tax purposes, the individual PAGA payments will be allocated 100% to penalties.
23 *Id.* at § 3.2.5.2.

24 Any deductions not approved by the Court will be retained by the Settlement Administrator
25 in the Net Settlement Amount. *Id.* at §§ 3.2.1, 3.2.2, 3.2.3, 3.2.5.2. Funds from any uncashed checks
26 will be transmitted by the Settlement Administrator to the California Controller’s Unclaimed
27 Property Fund in the name of the Class Member. *Id.* at §§ 4.3.3, 4.3.4. None of the Gross Settlement
28 Amount will revert to Defendant. *Id.* at § 3.1.

1 **B. Proposed Settlement Administration**

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

12 If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the
13 Class Notice within three (3) business days to the forwarding address provided by the U.S. Postal
14 Service. Settlement Agreement at § 7.4.3. If no forwarding address is provided, the Settlement
15 Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the
16 most current address obtained. *Id.* The deadline to opt-out of the Settlement or to submit an
17 objection or dispute will be extended by fourteen (14) days beyond the 60-day Response Deadline
18 for all Class Members whose Class Notice was remailed. *Id.* at §7.4.4.

19 **C. Proposed Release**

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

24 Released Class Claims:

25 All Participating Class Members, on behalf of themselves and their respective
26 former and present representatives, agents, attorneys, administrators, successors
27 and assigns, release Released Parties from all claims that were alleged, or
28 reasonably could have been alleged, based on the facts and allegations in the
Operative Complaint that are alleged to have occurred during the Class Period.
Except as set forth in Paragraph 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, or workers' compensation or claims based on events occurring outside the Class Period.

Settlement Agreement at § 5.2.

Released PAGA Claims:

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 that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Complaint that are alleged to have occurred during the PAGA Period and the PAGA Notice.

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

1 minimum number of class members for maintenance of a class action. *Hendershot v. Ready to Roll*
2 *Transp., Inc.*, 228 Cal.App.4th 1213, 1222 (2014). Class sizes as small as 10 have been permitted.
3 *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981), disapproved on other grounds by *Noel*,
4 7 Cal.5th at 986.

5 The Class here consists of persons employed by Defendant in California and classified as
6 an hourly-paid, non-exempt individual who worked for Defendant at any time during the Class
7 Period. See Settlement Agreement at §§ 1.5, 1.12. The Class is also readily ascertainable from
8 Defendant’s business records, because all Class Members are or were employees of Defendant. *Id.*
9 Defendant’s records show there are approximately 86 Class Members, making joinder of all Class
10 Members impracticable. Yslas Decl. at ¶ 9.

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

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

15 a. Common Questions Predominate

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

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

1 policies and practices resulted in Labor Code violations, whether Defendant's conduct was
2 intentional, and whether Class Members are entitled to damages and/or penalties. *Id.* These
3 common questions could be resolved using Class Members' time records, payroll records,
4 testimony from Defendant's designated representative(s), and Class Members' testimony. *Id.*
5 Therefore, the Court can and should exercise its discretion to grant conditional class certification
6 for settlement purposes.

7 *b. Plaintiff is Typical of the Class*

8 Typicality does not require that the representative plaintiff's claims and those of the class
9 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
10 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th
11 260 (2018). Typicality does not require that a plaintiff's claims be identical to those of other class
12 members, only that their claims and the defenses applicable to them are sufficiently similar to those
13 of other class members that a named plaintiff is able to adequately represent the class and focus on
14 common issues. *Medraza v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

15 Plaintiff has alleged that she and Class Members were employed by the same Defendant
16 and injured by Defendant's common wage and hour policies and practices, including Defendant's
17 scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Yslas
18 Decl. at ¶ 10. Through informal discovery, Plaintiff confirmed that these challenged policies and
19 practices applied to Plaintiff and Class Members alike. *See id.* at ¶ 8. Therefore, Plaintiff's claims
20 and Class Members' claims arise from the same challenged employment policies and practices and
21 are based on the same legal theories.

22 *c. Plaintiff and Plaintiff's Counsel Will Adequately Represent the Class*

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

1 Plaintiff's interests are coextensive with Class Members' interests. Declaration of Joselin
2 Maciel Hernandez in Support of Plaintiff's MPA ("Maciel Hernandez Decl.") at ¶ 6. Plaintiff has
3 demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit,
4 providing information to her attorneys, meeting with her attorneys regarding the claims, making
5 herself available the day of mediation to answer questions, and reviewing the proposed Settlement.
6 *Id.* at ¶ 11.

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

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

11 Courts have held that class treatment of wage and hour claims is clearly "superior to the
12 other available methods for the fair and efficient adjudication of the controversy." *Dean Witter*
13 *Reynolds, Inc. v. Superior Court*, 211 Cal.App.3d 758, 772-773 (1989). This is so because "[p]ublic
14 policy has long favored the 'full and prompt payment of wages due an employee.'" *Sav-On Drug*
15 *Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, a class action is superior to a
16 multitude of individual lawsuits. Given the size and amount of each Class Member's claim, Class
17 Members have little incentive to litigate their claims on an individual basis because the out-of-
18 pocket expenses and personal commitment necessary to litigate each claim likely outweigh any
19 potential recovery. Yslas Decl. at ¶ 9. Therefore, a class action is the superior method for seeking
20 relief.

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

22 The moving party must demonstrate that "the settlement is fair, adequate and reasonable."
23 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 126 (2008). "In determining whether a
24 class settlement is fair, adequate, and reasonable, the trial court should consider relevant factors,
25 such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further
26 litigation, the risk of maintaining class action status through trial, the amount offered in settlement,
27 the extent of discovery completed and the stage of the proceedings, the experience and views of
28 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. Yslas Decl. at ¶ 8. Plaintiff’s Counsel assessed the value to the class claims using the data and documents that Defendant produced in informal discovery, including class data providing the number of Class Members, the number of workweeks in the Class Period, the number of pay periods in the PAGA Period, Plaintiff’s personnel file, 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. Yslas Decl. at ¶ 1. Plaintiff’s Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 22-33. Plaintiff’s Counsel has been involved as counsel in numerous class actions that have

1 resulted in millions of dollars in recovery. *See id.*

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

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

9 Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage claims
10 were based on the allegation that Defendant required Class Members to perform work duties
11 while off the clock, without compensation. Yslas Decl. at ¶ 12. For example, Plaintiff alleged
12 that Defendant failed to provide Plaintiff and other Class Members with interrupted meal
13 periods of at least 30 minutes. *Id.* For purposes of calculating Defendant's liability based on a
14 best-case scenario for Plaintiff and the Class, Plaintiff's Counsel assumed that all unpaid worktime
15 should have been paid at the overtime rate of pay and conservatively estimated that Defendant is
16 liable for one (1) hour of unpaid worktime per workweek. *Id.* This results in potential exposure
17 for this claim of approximately \$261,155.85 (9,619 workweeks x \$18.10 average hourly rate of
18 pay x 1 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on
19 Class Member testimony and would not be evidenced in Defendant's time and payroll records, the
20 risk of succeeding at class certification and trial was substantial. Accordingly, Plaintiff's Counsel
21 applied a risk discount based on a 50% chance of succeeding at class certification and a 50% chance
22 of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
23 \$65,288.97 (\$261,155.85 x 50% x 50%). *Id.*

24 Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendant
25 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
26 in lieu thereof. Yslas Decl. at ¶ 13. For example, Plaintiff alleged that Defendant required Plaintiff
27 and Class Members to remain on premises and eat in the dining area so they could tend to customers
28 during their meal periods. *Id.* Additionally, Plaintiff's Counsel's expert consultant determined

1 there was a 28.6% meal period violation rate (for shifts over 5 hours) from the sampling of
2 Defendant's time and payroll records, where meal periods were short, late, or missed (there was a
3 26.3% violation rate for shifts over 6 hours that were not waivable). *Id.* Therefore, potential
4 liability for the meal period claim is approximately \$231,331.90 (44,688 shifts over 5 hours x
5 \$18.10 average hourly rate x 28.6% violation rate). *Id.* After taking into account the difficulty of
6 certifying and proving meal period claims, as well as Defendant's contention that the claim lacks
7 merit and that a 28.6% violation rate is unrealistic, Plaintiff's Counsel discounted this figure based
8 on a 60% chance of succeeding at class certification and a 50% chance of succeeding at trial,
9 yielding a realistic damage estimate of approximately \$69,399.57 (\$231,331.90 x 60% x 50%). *Id.*

10 Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendant failed
11 to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu
12 thereof. Yslas Decl. at ¶ 14. For example, Plaintiff alleged that Defendant required her and other
13 Class Members to work through their rest periods due to Defendant's chronic understaffing. *Id.*
14 Additionally, Plaintiff further alleged that Defendant required its employees to track their rest
15 periods and Plaintiff's Counsel's expert consultant determined there was an 88.6% rest period
16 violation rate (for shifts 3.5 hours or longer) from the sampling of Defendant's time and payroll
17 records, where rest periods were short, late, or missed. *Id.* Therefore, Defendant's potential liability
18 for the rest period claim is approximately \$727,003.22 (45,334 shifts of 3.5 hours or longer x
19 \$18.10 average hourly rate x 88.6% violation rate). However, Plaintiff's Counsel discounted this
20 figure to account for the difficulty of certifying and proving rest period claims and to account for
21 the possibility of Class Members voluntarily choosing to forego a rest period. *Id.* After taking into
22 account the difficulty of certifying and proving rest period claims, Plaintiff's Counsel discounted
23 this claim based on a 40% chance of succeeding at class certification and a 30% chance of
24 succeeding at trial, yielding a realistic damage estimate of approximately \$87,240.39 (\$727,003.22
25 x 40% x 30%). *Id.*

26 Reimbursements: Plaintiff's reimbursement claim was based on the allegation that
27 Defendant failed to indemnify Class Members for expenses incurred as a direct result of performing
28 their job duties for Defendant, such as being required to purchase a company shirt, apron, and non-

1 slip shoes to where when working for Defendant. Yslas Decl. at ¶ 15. For purposes of calculating
2 Defendant's liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel
3 estimated that Defendant was liable to each Class Member for \$7.50 per workweek in
4 unreimbursed expenses, for a total amount of approximately \$72,142.50.00 ($\$7.50 \times 9,619$
5 workweeks). *Id.* However, Defendant would argue that not all such expenses by employees were
6 entitled to reimbursement. *Id.* Accordingly, Plaintiff's Counsel discounted this claim based on a
7 30% chance of succeeding at class certification and a 30% chance of succeeding at trial, yielding
8 a realistic damage estimate of approximately \$6,492.83 ($\$72,142.50 \times 30\% \times 30\%$). *Id.*

9 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
10 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
11 approximately \$1,219,490.97. Yslas Decl. at ¶ 16. However, after factoring in the risk and
12 uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's
13 realistic estimated recovery for these non-penalty wage claims is approximately \$221,928.93. *Id.*

14 Derivative Penalties: Plaintiff alleged that as a result of Defendant's failure to pay all wages
15 owed, Defendant owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 17.
16 With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated
17 that Defendant's realistic potential liability is approximately \$23,083.68. *Id.* Defendant's
18 maximum potential liability for waiting time penalties is approximately \$160,728.00 (40
19 employees x \$18.10 average hourly rate of pay x 7.4 hours/day x 30 days) based on approximately
20 40 formerly employed Class Members during the 3-year statute of limitations period and an
21 average shift length of 7.4 hours. *Id.* Defendant's maximum potential liability for inaccurate wage
22 statements is approximately \$224,000.00 (56 employees x \$4,000.00 statutory maximum), based
23 on approximately 56 employees during the 1-year statute of limitations period and 3,458 pay
24 periods in that statutory timeframe. *Id.* In light of the foregoing, Plaintiff's Counsel believes that
25 it would be unrealistic to expect the Court to award the full \$384,728.00 in statutory penalties
26 given Defendant's defenses, the contested nature of Plaintiff's claims, the challenges of
27 establishing willfulness as applicable, and the discretionary nature of penalties. *Id.* Considering
28 that the underlying wage claims are realistically estimated to be approximately \$221,928.93, such

1 a disproportionate award would also raise due process concerns. *Id.* As such, Plaintiff's counsel
2 discounted these figures to account for the risk and uncertainty of obtaining class certification and
3 prevailing at trial, resulting in a realistic evaluation of approximately \$9,643.68 for waiting time
4 penalty claims ($\$160,728.00 \times 30\% \times 20\%$), and approximately \$13,440.00 for wage statement
5 penalty claims ($\$224,000.00 \times 30\% \times 20\%$), or approximately \$23,083.68 total for statutory
6 penalties. *Id.*

7 PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendant's potential
8 exposure could potentially reach \$382,700.00, assuming the initial \$100 penalty would apply for
9 each of the 3,827 pay periods in the PAGA Period. Yslas Decl. at ¶ 18. However, even assuming
10 success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a
11 variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary
12 and oppressive, or confiscatory. *Id.* As such, Plaintiff's counsel discounted this figure to account
13 for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately
14 \$38,270.00 for PAGA penalties ($\$382,700.00 \times 10\%$). *Id.* The settlement allocates \$12,023.75 of
15 the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 5% of the Gross
16 Settlement Amount and approximately 31% of the realistic maximum damages for PAGA penalties
17 ($\$12,023.75 / \$38,270.00$). *Id.*

18 Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum
19 recovery for all claims, including penalties, would be approximately \$289,775.44. Yslas Decl. at
20 ¶ 19. This means that the gross settlement figure represents approximately 83% of the realistic
21 maximum recovery ($\$240,475.00 / \$289,775.44$). *Id.* Considering the risk and uncertainty of
22 prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
23 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
24 avoid the risk of an unfavorable judgment. *Id.*

25 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
26 class settlement payments is currently estimated to be \$111,542.92 for approximately 86 Class
27 Members. Yslas Decl. at ¶ 20. As a result, each Settlement Class Member would be eligible to
28 receive an average net benefit of approximately \$1,297.01. *Id.* Based on the estimated Net

1 Settlement Amount available for individual class payments and there being approximately 9,619
2 workweeks in the Class Period, the estimated weekly valuation for Individual Class Payments is
3 \$11.60 (\$111,542.92 / 9,619 workweeks). *Id.*

4 **C. The Requested Service Payment is Reasonable**

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

11 Throughout this case, Plaintiff assisted counsel in providing information necessary to
12 prosecute the claims, meeting with counsel regarding the claims, maintaining regular contact with
13 counsel, making herself available the day of mediation to answer questions, and reviewing the
14 Settlement to ensure it was fair to the Class. Maciel Hernandez Decl. at ¶ 11. No action would
15 likely have been taken by Class Members individually and no compensation would have been
16 recovered for them, but for Plaintiff's services on behalf of the Class. By actively pursuing this
17 action, Plaintiff furthered the California public policy goal of enforcing the State's wage-and-hour
18 laws. *See Sav-On*, 34 Cal.4th at 340. The requested Class Representative Service Payment is
19 reasonable and should be preliminarily approved. Plaintiff has provided a declaration regarding
20 her work performed to date and will provide additional information as requested or required by the
21 Court at final approval.

22 **D. The Requested Attorneys' Fees and Costs Are Reasonable**

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

1 Plaintiff seeks appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
2 performed significant work and expended litigation costs in prosecuting this matter with no
3 guarantee of payment. Yslas Decl. at ¶ 21. Plaintiff's Counsel seeks preliminary approval for up
4 to 33.33% of the Gross Settlement Amount in attorneys' fees, currently estimated to be \$80,158.33,
5 and up to \$20,000.00 in reimbursement of litigation costs. Given the work performed in this matter,
6 the extensive information exchange, and the substantial recovery obtained on behalf of the Class,
7 Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas
8 Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award
9 of attorneys' fees and litigation costs.

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

11 The Parties have agreed upon using Phoenix to administer this Settlement. Settlement
12 Agreement at §§ 1.2, 7.1. Plaintiff seeks preliminary approval of \$6,750.00 for Phoenix to
13 administer this Settlement pursuant to Phoenix's will-not-exceed bid. *See* Declaration of Jodey
14 Lawrence in Support of Plaintiff's MPA, at ¶ 22, Exhibit B. The services covered by this payment
15 are extensive and necessary to carry out the Settlement administration.

16 **V. CONCLUSION**

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

22
23 Respectfully submitted,

24 Dated: August 25, 2026

WILSHIRE LAW FIRM, PLC

25
26 By: /s/ Courtney M. Miller

27 Courtney M. Miller
28 Attorneys for Plaintiff