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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JAKE STEIN and MARGARET-JESSICA DURAN, individually, on behalf of all others similarly situated, and on behalf of the State of California and other aggrieved persons, *Plaintiffs*, v. ALTERNATIVE THERAPEUTIC SOLUTIONS, INC., a California corporation; SOUTH CORD MANAGEMENT LLC, a California limited liability company; CATALYST MARCH FOR ACTION LLC, a California limited liability company; 562 DISCOUNT MED, INC., a California corporation; and DOES 1 through 10, inclusive, *Defendants*.	Case No. 23STCV07216 *Assigned for all purposes to Hon. Carolyn B. Kuhl Dept. 12* **NOTICE OF MOTION AND PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: December 8, 2025 Time: 10:30 a.m. Dept.: 12

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 8, 2025 at 10:30 a.m., or as soon thereafter as the matter may be heard in Department 12 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiffs Jake Stein ("Plaintiff Stein") and Margaret-Jessica Duran ("Plaintiff Duran") (collectively, "Plaintiffs") will and hereby do 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 ILYM Group, Inc. 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, 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 Jeffrey C. Bils, the Declaration of Plaintiffs, the Declaration of Lisa Mullins, 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.

Dated: October 16, 2025

WILSHIRE LAW FIRM, PLC

By: Lisa Iturriaga

Jeffrey C. Bils
Aram Boyadjian
Lisa B. Iturriaga
Attorneys for Plaintiffs

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I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs seek preliminary approval of the Parties' Class Action and PAGA Settlement Agreement ("Settlement Agreement"), resolving the wage and hour claims, including a representative claim brought under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), brought against a group of marijuana dispensaries.[1] The proposed $300,000 settlement amount is a fair and reasonable, especially considering that Collective Bargaining Agreements ("CBA") with mandatory grievance procedures govern virtually all of the proposed class members. Plaintiffs defeated Defendants' motion to compel individual arbitration only because one Plaintiff was a probationary employee and the other a manager, thus arguably not part of the CBA's bargaining unit. If this matter were to proceed in litigation, there is quite significant risk that Defendants would prevail on a motion to limit class claims on this basis, leaving this action as essentially a PAGA-only matter, with 33,577 PAGA pay periods.

Further, in the course of extensive discovery following an unsuccessful mediation, including depositions of both Plaintiffs and two of Defendants' designated "person most qualified" witnesses, Defendants have produced additional information and presented arguments and defenses that have heightened the risk that a class might not be certified, including:

- Defendants argue that updated CBAs make even probationary employees part of the bargaining unit, further potentially eroding the proposed class.
- Defendants argue that employees were not required to monitor their cell phones while they were off the clock to view Whats App messages sent by Defendants — which is a significant theory of recover for off-the-clock claims.

[1] Defendants proposed to be released include Alternative Therapeutic Solutions, Inc.; South Cord Management LLC; Catalyst March for Action LLC; 562 Discount Med, Inc.; 316 Florence Holdings, LLC; 1539 Manchester Holdings LLC; F2-Palm Desert, LLC; Ryan Cameron Rayburn Collective Inc.; HNHPC, Inc.; The Pajaro, Inc.; EEL – Pomona LLC; Catalyst – San Diego KM LLC; EEL – El Monte, LLC; Catalyst – Lancaster LLC; 11500 Vermont Holdings LLC; 4158 Pico Holdings LLC; 805 Beach Breaks Inc; Angel Organics Healing Center, LLC; Casey Crow Collective; Catalyst - Antioch LLC; Catalyst - Bellflower LLC; Catalyst - Distro LLC; Catalyst - Hawthorne, LLC; Catalyst - Long Beach V LLC; Catalyst - Lynwood LLC; Catalyst - San Bernardino LLC; Catalyst Hemet LLC; Catalyst - Santa Ana LLC; Central Valley - Sierra Associates; Diamond Alliance, LLC; EEL Oxnard LLC; Nebrina Daly City LLC; Pacific Roots Marina, LLC; Puradora LLC; and RD x Catalyst - Costa Mesa LLC.

- Defendants have argued that any time spent working during rest breaks was voluntary, and that rest breaks were taken even if not recorded.
- Under all of these circumstances, and as set forth in the Declaration of Jeffrey C. Bils ("Bils Decl.") submitted with this Motion, Plaintiffs' counsel would have faced serious challenges establishing a predominance of evidence supporting common issues, and uniformity, sufficient for class certification.

The proposed Class is defined as all persons who worked for Defendants in California as an hourly-paid or non-exempt employee ("Class Members") at any time during the Class Period from October 7, 2018 through October 4, 2025, or the date of preliminary approval ("Class Period"). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of $300,000.00, which will be distributed to approximately 2,056 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 $100,000.00) and in reimbursement of litigation costs to Plaintiffs' Counsel up to $90,000.00;
3. Class Representatives Service Payments of up to $10,000.00 to each Plaintiff ($20,000.00 total);
4. Costs of settlement administration of up to $15,950.00; and
5. Allocation of $30,000.00 to PAGA penalties, seventy-five percent (75%) of which ($22,500.00) will be paid to the Labor and Workforce Development Agency ("LWDA"), and twenty-five percent (25%) of which ($7,500.00) will be paid to 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 5, 2022 through October 4, 2025, or the date of preliminary approval, whichever date is later.

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. As such, Plaintiffs request that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as the Class Representative, appoint Wilshire Law Firm, PLC ("WLF") as Class Counsel, appoint ILYM Group, Inc. ("ILYM") 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 April 3, 2023, Plaintiffs filed the Class Action against Defendants Alternative Therapeutic Solutions, Inc.; South Cord Management LLC; Catalyst March for Action LLC; and 562 Discount Med, Inc. ("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. [Bils Decl., at ¶ 3.]

On April 5, 2023, Plaintiffs provided written notice to the LWDA and Defendants of their intention to file a Labor Code Private Attorneys General Act of 2004 ("PAGA") claim (LWDA-CM-988146-23). [*Id.* at ¶ 4, Exhibit 3.] The LWDA did not notify Plaintiffs that it intended to investigate. [*Id.*] Therefore, on August 8, 2023, Plaintiffs filed a First Amended Class & Representative Action Complaint adding a claim for civil penalties pursuant to Labor Code § 2699, *et seq*. (2016). [*Id.*]

On September 15, 2023, Defendants filed a Motion to Compel Arbitration. On October 10, 2023, Plaintiffs filed an Opposition to Defendants' Motion to Compel Arbitration. [*Id*. at ¶ 5.] On October 16, 2023, Defendants filed a Reply in Support of Motion to Compel Arbitration. [*Id*.] On October 23, 2023, the Court denied Defendants' Motion to Compel Arbitration on the grounds that the Court could not conclude that Plaintiff Stein, a manager, and Plaintiff Duran, a probationary employee, were part of the bargaining unit subject to the CBA at issue requiring individual arbitration of wage-and-hour claims. [*Id*.]

On May 22, 2024, Plaintiffs and Defendants (collectively, the "Parties") participated in an early private mediation with mediator Steve Cerveris, Esq. [*Id.* at ¶ 6.] The Parties were unable to reach a settlement. [*Id.*] As such, Plaintiffs continued to prepare for class certification, and the Parties engaged in extensive formal discovery (*e.g.*, multiple sets of written discovery, multiple depositions, Belaire-West Notice process, etc.). [*Id.*]

On May 7, 2025, Plaintiffs filed multiple amendments to the operative complaint adding 316 Florence Holdings, LLC; 1539 Manchester Holdings LLC; F2-Palm Desert, LLC; HNHPC, Inc.; and Ryan Cameron Rayburn Collective, Inc., as defendants. On May 8, 2025, Plaintiffs filed additional multiple Amendment to Complaint adding The Pajaro, Inc.; EEL – El Monte, LLC; EEL – Pomona LLC; Catalyst – San Diego KM LLC; and Catalyst – Lancaster LLC as defendants. [*Id.* at ¶ 7.]

On May 14, 2025, Plaintiffs filed a Motion for Class Certification. [*Id*. at ¶ 8.] During May and June of 2025, the Parties continued negotiating as to a potential resolution and ultimately agreed to a settlement in principle of the entire action, although the precise number of workweeks and PAGA periods was not yet determined and needed to be fleshed out before a final agreement could be executed (a process that was complex and understandably anticipated to take Defendants some time to determine). [*Id*. at ¶ 9.] 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*.]

On or around June 5, 2025, the Parties filed a Joint Stipulation Re Proposed Settlement, Stay of Discovery, and Taking Class Certification Motion Off Calendar which the Court granted on June 23, 2025. [*Id*. at ¶ 10.] The parties negotiated the terms of the Settlement over the next several months, working together to finalize a long-form proposed settlement agreement to include various additional Catalyst entities, and to identify additional specific information including the exact number of class members, workweeks, aggrieved employees, and PAGA pay periods at issue. [*Id*. at ¶ 11.] Given the complexities and multiple entities to be subject to the proposed settlement agreement, this process understandably has taken a significant amount of time to complete. [*Id*.] On October 6, 2025, Defendants provided the workweek and PAGA period count to Plaintiffs. [*Id*.]

The parties finalized their proposed settlement agreement on October 16, 2025. [*Id*. at ¶ 11, Exhibit 1 ("Settlement Agreement").] On October 16, 2025, Plaintiffs submitted a copy of the Settlement Agreement to the LWDA. [*Id*. at ¶ 12, 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 for a Gross Settlement Amount of $300,000.00. [Settlement Agreement at § 3.1.] Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) class representatives service payments of up to $10,000.00 each Plaintiff ($20,000.00 total); (2) attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount (currently $100,000.00) and reimbursement of actual litigation costs to Plaintiffs' Counsel currently estimated not to exceed $90,000.00; (3) costs of settlement administration of up to $15,950.00 to ILYM; and (4) PAGA penalties in the amount of $30,000.00, which will be allocated 75% to the LWDA ($22,500.00) and 25% to Aggrieved Employees ($7,500.00). [Settlement Agreement at §§ 3.2.1-3.2.5.] After all requested deductions are made, the remaining Net Settlement Amount for the proposed class is currently estimated to be $44,050.00.

Individual Class Payments will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by each individual Participating Class Member's Workweeks. [Settlement Agreement at § 3.2.4.] For tax purposes, the individual class payments will be allocated 20% to wages and 80% to penalties and interest. [Settlement Agreement at § 3.2.4.1.] Defendants will separately pay any and all employer payroll taxes owed on the wage portions of the Individual Class Payments separate from the Gross Settlement Amount. [Settlement Agreement at § 3.1.]

Individual PAGA Payments to Aggrieved Employees will be calculated by dividing the Net PAGA Distribution Amount (the Aggrieved Employees' 25% share of PAGA Penalties of $7,500.00) by the total number of PAGA Pay Periods by all PAGA Members. [Settlement Agreement at § 3.2.5.1.] Each PAGA Member shall receive an Individual PAGA Payment equal to his or her individual PAGA Periods multiplied by the value of a single PAGA Pay Period. [*Id*.] Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. [*Id*.]

Any deductions not approved by the Court will be retained by the Settlement Administrator in the Net Settlement Amount. [Settlement Agreement at §§ 3.2.1-3.2.5.] Funds from any uncashed checks will be transmitted by the Administrator to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). [Settlement Agreement at § 4.4.3.] None of the Gross Settlement Amount will revert to Defendants. [Settlement Agreement at § 3.1.]

B. Proposed Settlement Administration

The Parties' proposed Class Notice complies with the requirements of California Rules of Court, Rule 3.766(d). [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. [Settlement Agreement at § 7.4.2.]

If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the Class Notice on or before the Response Deadline to the forwarding address provided by the U.S. Postal Service. [Settlement Agreement 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 an additional fourteen (14) days for all Class Members whose Class Notice was remailed. [Settlement Agreement at § 7.4.4.]

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C. Proposed Release

Released Class Claims: All Participating Class Members will release all claims, rights, demands, liabilities, and causes of action, alleged or which could have reasonably been alleged based on the facts alleged in the operative Complaint, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194, and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code §§ 2802); and (8) unfair business practices (pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq.). The enumeration of these specific claims shall neither enlarge nor narrow the scope of res judicata based on the claims that were asserted in the Action or could have been asserted in the Action based on the facts and circumstances alleged in the Complaint. The Released Class Claims are those that accrued during the Class Period. [Settlement Agreement at § 5.2.]

Released PAGA Claims: All Aggrieved Employees will release all claims for PAGA civil penalties that are alleged or reasonably could have been alleged based on the facts alleged in the operative Complaint and in Plaintiffs' April 5, 2023 PAGA Notice, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194 and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 210, 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 210 and 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201 – 203 and 213(d)); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226 and 226.3); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code § 2802); (8) failure to pay all earned wages twice per month and unlawfully withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (9) failure to maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor Code §§ 1174, and 1174.5); (10) recordkeeping requirement violations (pursuant to Cal. Labor Code §§ 226.6, 558.1, 1174, 1174.5, 1198 and 1199); (11) willful misclassification (pursuant to Cal. Labor Code § 226.8); (12) retaliation (pursuant to Cal. Labor Code § 1102.5); and (13) civil penalties for wage and hour violations (pursuant to Cal. Labor Code § 558). The Released PAGA Claims are those that accrued during the PAGA Period. [Settlement Agreement at § 5.3.]

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* (2012) 53 Cal.4th 1004, 1021. 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* (2003) 113 Cal.App.4th 836, 859.

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 (2019) 980-981, 985-986. 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.* (2014) 228 Cal.App.4th 1213, 1222. Class sizes as small as 10 have been permitted. *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934, disapproved on other grounds by *Noel*, 7 Cal.5th at 986.

The Class here consists of all persons who worked for Defendants in California as an hourly-paid or non-exempt employee at any time during the Class Period from October 7, 2018 through October 4, 2025 or the date of preliminary approval, which ever date is later. [Settlement Agreement at §§ 1.5, 1.13.] The Class is also readily ascertainable from Defendants' business records, because all Class Members are or were employees of Defendants. [Bils Decl. at ¶ 14.] Defendants' records show there are approximately 2,056 Class Members, making joinder of all Class Members impracticable. [*Id*.]

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. <u>*Common Questions Predominate*</u>

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* (2014) 59 Cal.4th 1, 28-29. The "predominate common questions" factor does not require that all class members have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.* (2014) 59 Cal.4th 522, 530. 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 periods, rest periods, reimbursements for business expenses, accurate wage statements, and timely payment of wages upon separation of employment. [Bils Decl. at ¶ 15.] 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.

b. <u>Plaintiffs are Typical of the Class</u>

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.* (2001) 91 Cal.App.4th 224, 228, disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269-280. 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* (2008) 166 Cal.App.4th 89, 99.

Plaintiffs have alleged that they and Class Members were employed by the same Defendants and injured by Defendants' common wage and hour policies and practices, including Defendants' scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. [Bils Decl. at ¶ 15.] Through informal and formal discovery, including the production of documents by Defendants and deposition, Plaintiffs confirmed that there is evidence supporting that these challenged policies and practices applied to Plaintiffs as well as Class Members. [*Id.* at ¶ 13.] 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. <u>Plaintiffs and Plaintiffs' Counsel Will Adequately Represent the Class</u>

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* (1981) 29 Cal.3d 462, 470. 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. The proposed class representatives and proposed Class Counsel present no such conflict.

Plaintiffs' interests are coextensive with Class Members' interests. [*See generally* Declaration of Jake Stein in Support of Plaintiffs' Motion for Preliminary Approval ("Stein

Decl."); Declaration of Margaret-Jessica Duran in Support of Plaintiffs' Motion for Preliminary Approval ("Duran Decl.").] Plaintiffs have demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit, gathering documents and information, keeping in regular contact with their attorneys, opposing Defendants motion to compel arbitration, making themselves available and sitting for depositions, propounding and responding to multiple sets of written discovery, making themselves available on the day of mediation and meeting with their attorneys to understand the claims and theories of liability at issue, filing for class certification, and reviewing the proposed Settlement. [Stein Decl. at ¶ 11; Duran Decl. at ¶ 11.]

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

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

Courts have held that class treatment of wage and hour claims is clearly "superior to the other available methods for the fair and efficient adjudication of the controversy." *Dean Witter Reynolds, Inc. v. Superior Court* (1989) 211 Cal.App.3d 758, 772-773. 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* (2004) 34 Cal.4th 319, 340. 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. [Bils Decl. at ¶ 14.] 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.* (2008) 168 Cal.App.4th 116, 126. "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, supra*, 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.* (1996) 48 Cal.App.4th 1794, 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. <u>The Settlement is the Result of Arm's Length Negotiation</u>

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. The Settlement in this matter was achieved through informed, arm's length bargaining between experienced attorneys. [Bils Decl. at ¶¶ 6, 9-11.] 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*. at ¶ 9.]

b. <u>Sufficient Investigation and Discovery Have Been Conducted</u>

Prior to attending mediation, Plaintiffs' Counsel thoroughly investigated the claims, applicable laws, and potential defenses. [*Id.* at ¶ 13.] Plaintiffs' Counsel assessed the value to the class claims using the documents and data Defendants produced in informal discovery, including class data providing the dates of employment for Class Members, Plaintiffs' personnel file, employment handbooks and policies, job descriptions, and time and payroll records. [*Id.*] In the months following the unsuccessful mediation, Plaintiffs' Counsel obtained significant additional information through formal discovery, including written discovery and depositions. [*Id*.]

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c. Plaintiffs' Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Wilshire Law Firm, PLC. *Id.* at ¶ 23. Plaintiffs' Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 24-35. Plaintiffs' Counsel have been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

2. The Settlement is Reasonable Given the Strengths of 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* (1991) 220 Cal.App.3d 1117, 1139. 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. [Bils Decl. at ¶ 16.]

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. [*Id.* at ¶ 17.] Based on Plaintiffs' estimate that they worked approximately 1 hour off-the-clock each week, Plaintiff's Counsel assumed each Class Member worked 1-hour off-the-clock per week in calculating potential exposure to be approximately $2,529,892 for these claims (calculated as $19.83/hour x 127,579 workweeks). [*Id.*] However, Defendants argued that any off-the-clock time was undocumented and unknown to Defendants, and that Defendants therefore were not obligated to pay for this time. [*Id.*] Defendants further argued that Class Members were not required to monitor their cell phones while they were off the clock to view Whats App messages sent by Defendants — which is a significant theory of recovery for off-the-clock claims — and therefore Class Members are not owed compensation for any time they spent off-the-clock looking at Whats App messages. [*Id.*] Because this claim would have relied heavily on Class Member testimony and would not be evidenced in Defendant's time and payroll records, the risk of not succeeding at class certification was quite substantial. [*Id.*] Further, as noted, Defendants have argued that the vast majority of class members are required to submit their claims in individual arbitrations, which only increases the risk that class claims on these causes of action may fail. [*Id.*] Under these circumstances, finding a predominance of evidence supporting common issues, and uniformity sufficient for class certification, would have presented serious challenges. [*Id.*] Accordingly, Plaintiff's Counsel applied a risk discount based on a 10% chance of succeeding at class certification and a 50% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $126,494.60 (calculated as $2,529,892 x 10% x 50%), or approximately 42% of the Gross Settlement Amount. [*Id.*]

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 Class Members' meal periods were late, short, or missed. [*Id.* at ¶ 18.] Plaintiffs' meal period claim was further based on the allegation that Defendants interrupted meal periods by sending Whats App messages, which Class Members received, at all hours without regard to whether Class Members were on the clock. [*Id.*] As noted, Defendants argued that Class Members were not required to monitor their cell phones while they were off the clock to view Whats App messages sent by Defendants, therefore Class Members are not owed compensation for any time they spent off-the-clock looking at Whats App messages. [*Id.*] Defendants have argued that any such time spent during meal periods was voluntary. [*Id.*] Further, as noted, Defendants have argued that the vast majority of class members are required to submit their claims in individual arbitrations, which only increases the risk that class claims on these causes of action may fail. [*Id.*] This claim would have relied substantially on Class Member testimony, and in light of the CBAs and other defenses asserted, and due to significant challenges to establishing a predominance of evidence supporting common issues, and uniformity sufficient for class certification, would have presented serious challenges. [*Id.*] For this claim, Plaintiffs' Counsel assumed a 50% violation rate and calculated potential exposure to be approximately $632,473 (calculated as $19.83/hour x 127,579 workweeks x 25%). [*Id.*] However, in light of the significant hurdles, including the potential for Defendants to attack class certification based on the CBAs, Plaintiffs' Counsel applied a risk discount based on a 10% chance of succeeding at class certification and a 50% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $31,622 (calculated as $632,473 x 10% x 50%), or approximately 10.5% of the Gross Settlement Amount. [*Id.*]

Rest Breaks: Similar to the meal break claim, Plaintiffs' rest break claim was based on the allegation that Defendants failed to provide Class Members rest periods and/or unlawfully told Class Members to combine their rest and meal breaks. [*Id*. at ¶ 19.] Plaintiffs' rest break claim also was based on time records of rest breaks that were produced for some Defendants. [*Id*.] Based on these time records, Plaintiffs' Counsel applied a 60.9% violation rate to all shifts over 3.5 hours and calculated a potential exposure of $1,540,704 (calculated as $19.83/hour x 127,579 workweeks X 60.9%). [*Id*.] Defendants have argued that any time spent during rest periods was voluntary. Defendants also argued that rest breaks were actually taken even if not recorded. [*Id*.] Further, as noted, Defendants have argued that the vast majority of class members are required to submit their claims in individual arbitrations, which only increases the risk that class claims on these causes of action may fail. [*Id*.] Finding a predominance of evidence supporting common issues, and uniformity sufficient for class certification, would have presented serious challenges. [*Id.*] Because this claim would have relied substantially on Class Member testimony, and in light of the CBAs and other defenses asserted, Plaintiff's Counsel applied a risk discount based on a 10% chance of succeeding at class certification and a 50% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $77,035 (calculated as $1,540,704 x 10% x 50%), or approximately 25.7% of the Gross Settlement Amount. [*Id*.]

Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that Defendants required Class Members to use their personal cell phones to carry out their job duties. [*Id.* at ¶ 20.] This claim also is based on large part on the allegation that Class Members were required to monitor their devices to view Defendants' Whats App messages. [*Id.*] Defendants argued that Class Members were not so required, and further, Defendants implemented a stipend of $5 per month in July of 2024 to reimburse for cell phone use. [*Id.*] Once again, class certification and liability on this issue faced significant hurdles including because anecdotal evidence would be required and difficult to obtain on a uniform basis. [*Id.*] Further, as noted, Defendants have argued that the vast majority of class members are required to submit their claims in individual arbitrations, which only increases the risk that class claims on these causes of action may fail. [*Id.*] Based on Plaintiffs' expert's observation that the average American business reimburses employees for $40 per month for cell phone plans when employees use their own personal cell phones for work, Plaintiffs' Counsel assumed each Class Member incurred $40 in unreimbursed expenses per month in calculating potential exposure to be approximately $1,275,790 (calculated as $40/month x 127,579 workweeks / 4 weeks in a month). [*Id.*] Once again, class certification and liability on this issue faced significant hurdles including because anecdotal evidence would be required and difficult to obtain on a uniform basis. [*Id.*] Further, as noted, Defendants have argued that the vast majority of class members are required to submit their claims in individual arbitrations, which only increases the risk that class claims on these causes of action may fail. [*Id.*] In light of the CBAs and other defenses asserted, Plaintiff's Counsel applied a risk discount based on a 10% chance of succeeding at class certification and a 50% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $63,789.50 (calculated as $1,275,790 x 10% x 50%), or approximately 21.3% of the Gross Settlement Amount. [*Id.*]

<u>Derivative Penalties</u>: 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.* at ¶ 21.] However, Defendants argued that it had good faith defenses that made the imposition of these penalties unwarranted. [*Id.*] Moreover, Plaintiffs could not recover these penalties if they failed to prove the underlying claims. [*Id.*] As such, the very same issues as to predominance and uniformity sufficient for class certification pose significant challenges. [*Id.*] In light of the CBAs and other defenses asserted for the predicate claims, as discussed above, this is significant risk that a class may not be certified. [*Id.*] Plaintiffs' Counsel calculated that potential exposure for the waiting time penalty claim was approximately $8,422,380 (calculated as 30 days x 2,056 Class Members x 8 hours x $19.83 per hour x 0.857 to account for shorter statute of limitations period), and approximately $4,687,680 for the wage statement penalty claim (a $4,000 employee maximum x 0.57 to account for shorter statute of limitations). [*Id.*] However, considering that the underlying claims are realistically estimated to be approximately $298,941.10, such a disproportionate award would also raise due process concerns. [*Id.*] As such, Plaintiffs discounted the figure to account for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately $252,671 (calculated as $8,422,380 x 10% x

30%) for waiting time penalty claims, or approximately 84% of the Gross Settlement Amount, and approximately $140,630 (calculated as $4,687,680 x 10% x 30%) for wage statement penalty claims, or approximately 47% of the Gross Settlement Amount. [*Id.*]

<u>PAGA</u>: For the PAGA claim, Plaintiffs' Counsel determined that Defendants' potential exposure could potentially reach $3,357,700, assuming the initial $100 penalty would apply for each of the 33,577 pay periods in the PAGA Period. [*Id*. at ¶ 22.] Many of the very same issues and defenses affecting the predicate claims, as discussed above, are also applicable here, creating significant risk of limiting the number of pay periods for which a PAGA recovery might be obtained in this litigation. [*Id*.] As such, Plaintiffs' counsel applied a risk discount based on a 50% chance of succeeding on the merits, reducing the potential recovery to $1,678,850. *Id*. However, even assuming this rate of success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of reasons, including whether the amount of the award would be unjust, arbitrary and oppressive, or confiscatory. [*Id*.] In light of all of the risks, and in the interest of the Class as a whole, Plaintiffs have allocated $30,000.00 of the Gross Settlement Amount to settle the PAGA claims, or 10% of the Gross Settlement Amount. [*Id*.]

C. The Requested Service Payments are Reasonable

Plaintiffs seek a Class Representative Service Payment of up to $10,000.00 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* (2010) 186 Cal.App.4th 1380, 1393; *Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726.

Throughout this case, Plaintiffs assisted counsel in gathering evidence necessary to prosecute the claims, maintained regular contact with counsel, propounded and responded to multiple sets of written discovery, sat for their depositions, filed for class certification, and reviewed the Settlement to ensure it was fair to the Class. [Stein Decl. at ¶ 11; Duran Decl. at ¶ 11.] 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, supra*, 34 Cal.4th at 340. The requested Class Representatives Service Payments are 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, if needed.

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, supra*, 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 as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting this matter with no guarantee of payment. [Bils Decl. at ¶ 23.] Plaintiffs' Counsel seek preliminary approval for $100,000.00 in attorneys' fees, which is up to one-third (1/3) of the Gross Settlement Amount, and reimbursement of actual litigation costs not to exceed $90,000.00. [Settlement Agreement at § 3.2.2.] 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*, Bils Decl.] At final approval, Plaintiffs' Counsel will fully brief the merits of their request for the award of attorneys' fees and litigation costs.

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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.

Respectfully submitted,

Dated: October 16, 2025

WILSHIRE LAW FIRM, PLC

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