

1 John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
2 Jeffrey C. Bills (SBN 301629)
jeffrey.bills@wilshirelawfirm.com
3 Emily K. Borman (SBN 303180)
emily.borman@wilshirelawfirm.com
4 Courtney M. Miller (SBN (SBN 327850))
courtney.miller@wilshirelawfirm.com
5 **WILSHIRE LAW FIRM, PLC**
6 660 S. Figueroa Street, Sky Lobby
7 Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

8 Attorneys for Plaintiff

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF CONTRA COSTA**

12 JOSHUA RICCABONA, individually, and on
13 behalf of the State of California and other
aggrieved persons,

14 *Plaintiff,*

15 v.

16 DOLANS OF PINOLE LUMBER AND
17 BUILDING MATERIALS CO., a California
18 corporation; DOLANS OF CONCORD, a
California corporation; and DOES 1 through 10,
inclusive,

19 *Defendants.*

Lead Case No.: C23-02758
Consolidated with Case No. C22-02810

*[Assigned for All Purposes to the Hon.
Edward G. Weil, Dept. 39]*

**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:

Time:

Dept.: 39

Class Action Filed: December 29, 2022

PAGA Action Filed: October 30, 2023

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

2 **PLEASE TAKE NOTICE** that at the date and time indicated above, or as soon
3 thereafter as the matter may be heard in Department 39 of the Superior Court of California,
4 County of Contra Costa, Wakefield Taylor Courthouse, located at 725 Court Street, Martinez,
5 California 94553, Plaintiff Joshua Riccabona (“Plaintiff”) will and hereby does move this Court
6 for an Order:

- 7 1. Granting preliminary approval of the proposed Class Action and PAGA Settlement
8 Agreement (“Settlement”);
9 2. Conditionally certifying the proposed Class for settlement purposes only;
10 3. Appointing Plaintiff Joshua Riccabona as the Class Representative;
11 4. Appointing John G. Yslas, Jeffrey C. Bils, Emily K. Borman, and Courtney M. Miller
12 of Wilshire Law Firm, PLC as Class Counsel;
13 5. Appointing ILYM Group Inc. as the Settlement Administrator; and
14 6. Setting a final approval hearing date.

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

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

24 Respectfully submitted,

25 Dated: February 23, 2026

WILSHIRE LAW FIRM, PLC

26 By: /s/ Courtney M. Miller
27 Courtney M. Miller
28 Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiff Joshua Riccabona (“Plaintiff”) seeks preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Private Attorneys General Act of 2004 (“PAGA”), against Defendants Dolans of Pinole Lumber and Building Materials Co. and Dolans of Concord (collectively “Defendants”). The proposed Class is defined as persons who worked for Defendants in California as an hourly-paid or non-exempt employee (“Class Members”) at any time during the period from December 29, 2018, to December 23, 2024 (“Class Period”). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of \$662,000.00, which will be distributed to approximately 260 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 (1/3) of the Gross Settlement Amount (currently estimated to be \$220,666.67) and up to \$47,000.00 in reimbursement of litigation costs to Plaintiff’s Counsel;
3. A Class Representative Service Payment of up to \$10,000.00 to Plaintiff;
4. Costs of settlement administration of up to \$7,750.00; 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 Defendant in California (“Aggrieved Employees”) during the period from August 31, 2023, to December 23, 2024 (“PAGA Period”).

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

1 Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint ILYM Group Inc. as
2 the Settlement Administrator, authorize the Settlement Administrator to administer notice of the
3 Settlement to the Class, and set a final approval hearing date.

4 **II. PROCEDURAL HISTORY**

5 On December 29, 2022, Plaintiff filed a putative class action against Defendant Dolans of
6 Pinole Lumber and Building Materials Co. alleging: (1) failure to pay minimum and straight time
7 wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to
8 authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure
9 to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures;
10 and (8) unfair business practices, in the Superior Court of California, County of Contra Costa, Case
11 No. C22-02810 ("Class Action"). Declaration of John G. Yslas in Support of Plaintiff's Motion
12 for Preliminary Approval of Class Action and PAGA Settlement ("Yslas Decl.") at ¶ 3.

13 On August 30, 2023, Plaintiff provided written notice to the LWDA and Defendant Dolans
14 of Pinole Lumber of the specific provisions the Labor Code alleged to have been violated,
15 including the facts and theories in support ("PAGA Notice"). Yslas Decl. at ¶ 4, Exhibit 1. The
16 LWDA did not notify Plaintiff that it intended to investigate within 65 days of the PAGA Notice.
17 Yslas Decl. at ¶ 4. On October 30, 2023, Plaintiff filed this representative action against Defendants
18 Dolans of Pinole Lumber and Building Materials Co. and Dolans of Concord (collectively
19 "Defendants") for civil penalties under PAGA ("PAGA Action"). *Id.*

20 On October 27, 2023, Plaintiff provided amended written notice to the LWDA and
21 Defendants of the specific provisions the Labor Code alleged to have been violated, including the
22 facts and theories in support ("Amended PAGA Notice"). Yslas Decl. at ¶ 5, Exhibit 2. The LWDA
23 did not notify Plaintiff that it intended to investigate within 65 days of the Amended PAGA Notice.
24 Yslas Decl. at ¶ 5. On January 26, 2024, Plaintiff filed a First Amended Complaint in this PAGA
25 Action. *Id.* On July 8, 2024, the Court consolidated the Class Action into this PAGA Action with
26 this PAGA Action designated as the master case. *Id.* at ¶ 6.

27 The Parties participated in a private full-day mediation with mediator Mark Lehocky, Esq.
28 ("Mr. Lehocky") on December 23, 2024, and June 5, 2025. Yslas Decl. at ¶ 7. The Parties accepted

1 the mediator's proposal and agreed on general settlement. *Id.* The parties negotiated the terms of
2 the Settlement over the next few months, which was finalized in October 2025. *Id.* at ¶ 7, Exhibit 3
3 ("Settlement Agreement"). On February 23, 2026, Plaintiff submitted a copy of the Settlement
4 Agreement to the LWDA. *Id.* at ¶ 8, Exhibit 4.

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

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

7 The Parties have agreed to settle the claims alleged in this Class Action and PAGA Action
8 for a Gross Settlement Amount of \$662,000.00. Settlement Agreement at § 3.1. Subject to Court
9 approval, the following payments will be deducted from the Gross Settlement Amount: (1) a Class
10 Representative Service Payment of up to \$10,000.00 to Plaintiff; (2) attorneys' fees of up to one
11 third (1/3) of the Gross Settlement Amount (currently \$220,666.67) and reimbursement of
12 litigation costs of up to \$47,000.00 to Plaintiff's Counsel; (3) costs of settlement administration of
13 up to \$7,750.00 to ILYM Group Inc.; (4) individual class payments to Class Members; and (5)
14 PAGA penalties in the amount of \$30,000.00, which will be allocated 75% to the LWDA
15 (\$22,500.00) and 25% to Aggrieved Employees (\$7,500.00). *Id.* at § 3.2. After all requested
16 deductions are made, the remaining Net Settlement Amount is currently estimated to be
17 \$346,583.33.

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

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

27 Any deductions not approved by the Court will be retained by the Settlement Administrator
28 in the Net Settlement Amount. *Id.* at § 3.2. Funds from any uncashed checks will be transmitted

1 by the Settlement Administrator to the California Controller’s Unclaimed Property Fund. *Id.* at
2 § 4.4.3. None of the Gross Settlement Amount will revert to Defendants. *Id.* at § 3.1.

3 **B. Proposed Settlement Administration**

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

14 If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the
15 Class Notice within five (5) days to the forwarding address provided by the U.S. Postal Service.
16 *Id.* at § 7.4.3. If no forwarding address is provided, the Settlement Administrator will conduct a
17 Class Member Address Search and re-mail the Class Notice to the most current address obtained.
18 *Id.* The deadline to opt-out of the Settlement or to submit an objection or dispute will be extended
19 by 14 days for all Class Members whose Class Notice was remailed. *Id.* at § 7.4.4.

20 **C. Proposed Releases**

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

24 Released Class Claims: “All Participating Class Members will release all claims, rights,
25 demands, liabilities, and causes of action, alleged or which could have reasonably been alleged
26 based on the facts alleged in the operative Complaint, including but not limited to: (1) failure to
27 pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197
28 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194, and

1 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 226.7 and 512); (4)
2 failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 226.7); (5) failure to
3 timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201-203); (6) failure to
4 provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to
5 indemnify employees for expenditures (pursuant to Cal. Labor Code §§ 2802); and (8) unfair
6 business practices (pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq.). The enumeration of these
7 specific claims shall neither enlarge nor narrow the scope of res judicata based on the claims that
8 were asserted in the Actions or could have been asserted in the Actions based on the facts and
9 circumstances alleged in the Complaint. The Released Class Claims are those that accrued during
10 the Class Period.” Settlement Agreement at § 5.2.

11 Released PAGA Claims: “All Aggrieved Employees will release all claims for PAGA civil
12 penalties that are alleged or reasonably could have been alleged based on the facts alleged in the
13 PAGA Action and in Plaintiff’s PAGA Notices, including but not limited to: (1) failure to pay
14 minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 210, 510, 1194, 1194.2,
15 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194
16 and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 210, 226.7 and
17 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 210 and
18 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201 –
19 203 and 213(d)); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor
20 Code §§ 226 and 226.3); (7) failure to indemnify employees for expenditures (pursuant to Cal.
21 Labor Code § 2802); (8) failure to produce requested employment records (pursuant to Cal. Labor
22 Code §§ 226, 432, and 1198.5); (9) failure to pay all earned wages twice per month and unlawfully
23 withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (10) failure to
24 maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor Code §§ 1174,
25 and 1174.5); (11) recordkeeping requirement violations (pursuant to Cal. Labor Code §§ 226.6,
26 558.1, 1174, 1174.5, 1198 and 1199); (12) willful misclassification (pursuant to Cal. Labor Code
27 § 226.8); (13) retaliation (pursuant to Cal. Labor Code § 1102.5); and (14) civil penalties for wage
28 and hour violations (pursuant to Cal. Labor Code § 558). The Released PAGA Claims are those

1 that accrued during the PAGA Period.” Settlement Agreement at § 5.3.

2 “Released Parties” means Defendants. Settlement Agreement at § 1.42.

3 Only Plaintiff will agree to a general release and a waiver of Civil Code § 1542. *Id.* at
4 §§ 5.1, 5.1.1.

5 **IV. THE PROPOSED SETTLEMENT AGREEMENT MEETS ALL CRITERIA FOR** 6 **PRELIMINARY APPROVAL**

7 **A. Provisional Certification of the Class is Appropriate**

8 Class certification is appropriate when there is: (1) an ascertainable and sufficiently
9 numerous class; (2) a well-defined community of interest among class members; and (3) substantial
10 benefits from certification that render proceeding as a class superior to the alternatives. *Brinker*
11 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1021 (2012). Although courts still need to
12 review and consider each element for certification, a lesser standard can be used to provisionally
13 certify a settlement class. *Global Minerals & Metals Corp. v. Superior Court*, 113 Cal.App.4th
14 836, 859 (2003).

15 **1. The Proposed Class is Numerous and Ascertainable**

16 “Ascertainability” is determined by examining the class definition and the size of the class,
17 and may also involve examining the means available to identify class members. *Noel v. Thrifty*
18 *Payless, Inc.*, 7 Cal.5th 955, 980-981, 985-986 (2019). As the settlement eliminates the need for
19 trial, “the case management issues inherent in the ascertainable class determination need not be
20 confronted.” *Global Minerals*, 113 Cal.App.4th at 859. Further, under California law, there is no
21 minimum number of class members for maintenance of a class action. *Hendershot v. Ready to Roll*
22 *Transp., Inc.*, 228 Cal.App.4th 1213, 1222 (2014). Class sizes as small as 10 have been permitted.
23 *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981), disapproved on other grounds by *Noel*,
24 7 Cal.5th at 986.

25 The Class here consists of all persons who worked for Defendants in California as an
26 hourly-paid or non-exempt employee at any time during the Class Period. *See* Settlement
27 Agreement at §§ 1.5, 1.13. The Class is also readily ascertainable from Defendants’ business
28 records, because all Class Members are or were employees of Defendants. *Id.* Defendants’ records

show there are approximately 260 Class Members, making joinder of all Class Members impracticable. Yslas Decl. at ¶ 10.

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.*

Plaintiff has 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. Yslas Decl. at ¶ 11. 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. Plaintiff is Typical of the Class

Typicality does not require that the representative plaintiff’s claims and those of the class

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

Plaintiff has alleged that he and other 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. See Yslas Decl. at ¶ 11. Through informal discovery, Plaintiff confirmed that these challenged policies and practices applied to Plaintiff and other Class Members alike. See *id.* at ¶ 9. Therefore, Plaintiff's claims and Class Members' claims arise from the same challenged employment policies and practices and are based on the same legal theories.

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

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

Plaintiff's interests are coextensive with Class Members' interests. Declaration of Joshua Riccabona in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Riccabona Decl.") at ¶ 6. Plaintiff has demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit, providing information to his attorneys, being available on the day of mediation to answer questions, meeting with his attorneys regarding the claims, and reviewing the proposed Settlement. *Id.* at ¶ 7.

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

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

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

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

16 The moving party must demonstrate that “the settlement is fair, adequate and reasonable.”
17 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 126 (2008). “In determining whether a
18 class settlement is fair, adequate, and reasonable, the trial court should consider relevant factors,
19 such as the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further
20 litigation, the risk of maintaining class action status through trial, the amount offered in settlement,
21 the extent of discovery completed and the stage of the proceedings, the experience and views of
22 counsel, the presence of a governmental participant, and the reaction of the class members to the
23 proposed settlement.” *Wershba*, 91 Cal.App.4th at 244-245 (internal quotations and citations
24 omitted).

25 **1. The Settlement is Entitled to a Presumption of Fairness**

26 A settlement is entitled to “a presumption of fairness . . . where: (1) the settlement is reached
27 through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel
28 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 ¶ 6. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

b. Sufficient Investigation and Discovery Have Been Conducted

Prior to attending mediation, Plaintiff’s Counsel thoroughly investigated the claims, applicable law, and potential defenses. *Id.* at ¶ 9. Plaintiff’s Counsel assessed the value to the class claims using the data and documents Defendants produced in informal discovery. The data and documents produced by Defendants included the number of Class Members and Aggrieved Employees, the number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, all documents concerning Plaintiff available to Defendants, Defendant’s written wage-and-hour policies, and a sampling of Class Members’ time and payroll records. *Id.*

c. Plaintiff’s Counsel is Experienced in Similar Litigation

Plaintiff is represented by Wilshire Law Firm, PLC. *Id.* at ¶ 1. Plaintiff’s Counsel has extensive experience litigating wage-and-hour class actions on behalf of employees. *See id.* at ¶¶ 22-33. Plaintiff’s Counsel has been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

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

A settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1991). Although

1 the exposure Plaintiff's Counsel calculated is substantial, the various risks at succeeding at class
2 certification and through trial affected the valuation of the claims for settlement purposes. Yslas
3 Decl. at ¶ 12. Based on an analysis of the facts and legal contentions in this case, documents and
4 information from Defendants, Plaintiff's Counsel evaluated Defendants' maximum exposure. *Id.*
5 Plaintiff's Counsel took into account the risk of not having the claims certified and the risk of not
6 prevailing at trial, even if the claims are certified. *Id.* After using the data Defendants provided,
7 including class member timekeeping and payroll records, as well as class member demographics,
8 with the assistance of a statistics expert, Plaintiff's Counsel created a damages model to evaluate
9 the realistic range of potential recovery for the class. *Id.*

10 Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage claims
11 were based on the allegation that Defendants required Class Members to routinely perform work
12 duties off the clock. Yslas Decl. at ¶ 13. For example, Plaintiff alleges that Defendants required
13 him and other Class Members to perform tasks before clocking in and after clocking out, without
14 compensation. *Id.* Based on these allegations, Plaintiff's Counsel conservatively estimated that
15 Class Members worked one (1) hour off the clock per week as overtime in calculating potential
16 exposure to be approximately \$993,378.75 for these claims (29,110 workweeks x \$22.75 hourly
17 rate x 1.5 overtime rate of pay x 1.00 hour of unpaid work per workweek). *Id.* Because this claim
18 would have relied heavily on Class Member testimony and would not be evidenced in Defendants'
19 time and payroll records, the risk of succeeding at class certification was substantial. *Id.*
20 Accordingly, Plaintiff's Counsel applied a risk discount based on a 40% chance of succeeding at
21 class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage
22 estimate of approximately \$158,940.60 (\$993,378.75 x 40% x 40%). *Id.*

23 Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants
24 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
25 in lieu thereof. Yslas Decl. at ¶ 14. For example, Plaintiff alleges that he and the other Class
26 Members were regularly required to work through their recorded meal periods. *Id.* In addition,
27 Plaintiff's Counsel's expert found a violation rate of approximately 15.2% in Defendants' time and
28 payroll records for shifts greater than five (5) hours. *Id.* Therefore, potential liability for the meal

1 period claims is approximately \$311,593.46 (90,108 shifts greater than 5.00 hours x \$22.75 hourly
2 rate x 15.2% violation rate). *Id.* However, Defendants argued that Class Members were covered by
3 standing meal period waivers. *Id.* Accordingly, Plaintiff's Counsel applied a risk discount based
4 on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial on
5 the merits, yielding a realistic damage estimate of approximately \$62,318.69 ($\$311,593.46 \times 50\%$
6 $\times 40\%$). *Id.*

7 Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed
8 to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu
9 thereof. Yslas Decl. at ¶ 15. For example, Plaintiff alleges that Defendants failed to provide him
10 and other Class Members with rest periods. *Id.* Moreover, Plaintiff alleges that Defendants had a
11 facially invalid written policy that required employees to remain on the premises during their rest
12 periods. *Id.* Based on these allegations, Plaintiff's Counsel applied a 100% violation rate to all
13 shifts of 3.5 hours or longer. *Id.* Therefore, potential liability for the rest period claims is
14 approximately \$2,081,170.00 (91,480 shifts of 3.5 hours or longer x \$22.75 hourly rate x 100%
15 violation rate). *Id.* However, Plaintiff's Counsel discounted this figure to account for the difficulty
16 of certifying and proving rest period claims, particularly because rest periods do not have to be
17 recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest
18 period. *Id.* Because this claim would have relied exclusively on Class Member testimony,
19 Plaintiff's Counsel discounted this claim based on a 30% chance of succeeding at class certification
20 and a 20% chance of succeeding at trial, yielding a realistic damage estimate of approximately
21 \$124,870.20 ($\$2,081,170.00 \times 30\% \times 20\%$). *Id.*

22 Reimbursements: Plaintiff's reimbursement claim was based on the allegation that
23 Defendants failed to indemnify Class Members for expenses incurred as a direct result of
24 performing their job duties for Defendants. Yslas Decl. at ¶ 16. For example, Plaintiff alleges that
25 Defendants required him and other Class Members to use their personal cell phones for work-
26 related purposes. *Id.* For purposes of calculating Defendants' liability based on a best-case scenario
27 for Plaintiff and the Class, Plaintiff's Counsel estimated that Defendants were liable to each class
28 member for \$30 per month, or \$7.50 per workweek, in unreimbursed expenses, for a total amount

1 of approximately \$218,325.00 ($\$7.50 \times 29,110$ workweeks). *Id.* Plaintiff's Counsel discounted this
2 figure based on an evaluation of a 30% chance of succeeding at class certification and a 30%
3 chance of succeeding at trial to account for the difficulty of certifying and proving expense
4 reimbursement claims, yielding a realistic damage estimate of approximately \$19,649.25
5 ($\$218,325.00 \times 30\% \times 30\%$). *Id.*

6 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
7 clock claim, meal period violations, and rest period violations (i.e. wage claims) is approximately
8 \$3.39 million, but after factoring in the risk and uncertainty of prevailing at certification and trial,
9 Plaintiff's Counsel estimates that Plaintiff's realistic estimated recovery for the non-penalty wage
10 claims is approximately \$346,129.49. Yslas Decl. at ¶ 17.

11 Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages
12 owed, Defendants owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 18.
13 With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated
14 that Defendants' realistic potential liability is approximately \$77,507.64. *Id.* Defendants'
15 maximum potential liability for waiting time penalties is approximately \$690,144.00 (128
16 employees $\times$ \$22.75 hourly rate $\times$ 7.90 hours/day $\times$ 30 days) based on approximately 128 formerly
17 employed class members during the 3-year statute of limitations period and an average daily shift
18 length of 7.90 hours. *Id.* Defendants' maximum potential liability for inaccurate wage statements
19 is approximately \$601,650.00 ($[151 \text{ employees} \times 1 \text{ initial violation/employee} \times \$50 \text{ for an initial}$
20 $\text{violation}] + [(6,092 \text{ pay periods} - 151 \text{ initial violations}) \times \$100 \text{ for each subsequent violation}]$)
21 based on approximately 151 class members who worked during the 1-year statute of limitations
22 period and approximately 6,092 pay periods in that statutory timeframe. *Id.* In light of the
23 foregoing, Plaintiff's Counsel believes that it would be unrealistic to expect the Court to award the
24 full \$1,291,794.00 in penalties given Defendants' defenses, the contested nature of Plaintiff's
25 claims, the challenges of establishing willfulness as applicable, and the discretionary nature of
26 penalties. *Id.* Considering that the underlying wage claims are realistically estimated to be
27 approximately \$346,129.49, such a disproportionate award would also raise due process concerns.
28 *Id.* As such, Plaintiff's Counsel discounted these figures to account for the risk and uncertainty of

prevailing at trial, resulting in a realistic evaluation of approximately \$41,408.64 (\$690,144.00 x 30% x 20%) for waiting time penalty claims, and approximately \$36,099.00 (\$601,650.00 x 30% x 20%) for wage statement penalty claims, or approximately \$77,507.64 total for statutory penalties. *Id.*

PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendants' potential exposure could potentially reach \$609,200.00, assuming the initial \$100 penalty would apply for each of the 6,092 pay periods in the PAGA Period. Yslas Decl. at ¶ 19. 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.* As such, Plaintiff's Counsel discounted this figure to account for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately \$60,920.00 (\$609,200.00 x 10%) for PAGA penalties. *Id.* The settlement allocates \$30,000.00 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 49% of the realistic maximum damages for PAGA penalties (\$30,000.00 / \$60,920.00). *Id.*

Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum recovery for all claims, including penalties, would be approximately \$504,206.38. Yslas Decl. at ¶ 20. This means that the realistic maximum recovery represents approximately 76% of the \$662,000.00 gross settlement figure (\$504,206.38 / \$662,000.00). *Id.* Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. *Id.*

The Net Settlement Amount available for class settlement payments is currently estimated to be \$346,583.33 for approximately 260 Class Members. Yslas Decl. at ¶ 21. As a result, each Settlement Class Member would be eligible to receive an average net benefit of approximately \$1,333.01. *Id.*

C. The Requested Service Payment is Reasonable

Plaintiff seeks a class representative service payment of up to \$10,000.00 for accepting the responsibilities of representing the interests of the Class and potential costs that were not borne by

1 any other Class Member. Settlement Agreement at § 3.2.1. A named plaintiff is eligible for
2 payment that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to
3 represent absent class members. *See Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380,
4 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004).

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

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

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

22 Additionally, courts utilize "multipliers" to account for the risk of taking on cases where
23 there is no guarantee of recovery, uncertainties as to the amount that will be recovered, uncertainty
24 as to the cost of litigating the case (both in effort and expenses), and uncertainty about how much
25 time will pass before the recovery is obtained. *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-33 (2001);
26 *see also Serrano v. Priest*, 20 Cal.3d 25, 48-49 (1977) (approving the adjustment of the lodestar
27 figure based on factors specific to the case to ensure fair market value for legal services provided
28 on a contingency basis). Application of that rule is particularly appropriate where the case is

1 brought to redress important rights of vulnerable persons. *Ketchum*, 24 Cal.4th at 1133.

2 Generally, “[m]ultipliers can range from 2 to 4 or even higher.” *Wershba v. Apple*
3 *Computers, Inc.*, 91 Cal.App.4th at p. 255 (2001); *see also Sutter Health Uninsured Pricing Cases*,
4 171 Cal.App.4th 495, 512 (2009) (applying a 2.52 multiplier on a cross-check in an antitrust class
5 action); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 60 (2008) (applying a 2.5 multiplier on a
6 lodestar cross-check); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 n.6 (9th Cir. 2002)
7 (“most” common fund cases apply a multiplier of 1.0-4.0); *Laffitte v. Robert Half Int’l*, 231
8 Cal.App.4th 860, 881-82 (2004) (affirming a 2.13 multiplier after finding that “2 to 4” is a
9 reasonable range for multipliers on a cross-check). *See also Bronshteyn v. State of California –*
10 *Department of Consumer Affairs*, 114 Cal.App.5th 537 (2025) (court did not abuse its discretion
11 by awarding 1.75 multiplier for fees incurred up to and including the jury verdict and a 1.25
12 enhancement for hours worked after the verdict where hourly rates for plaintiff’s five senior
13 attorneys were \$1,100.00 and \$1,000.00); *Tran v. Golden State FC LLC, et al.* (LASC Case No.
14 BC699931), Fee Order filed April 8, 2022 (approving hourly rate of \$1,300.00 for plaintiff’s 32-
15 year attorney).

16 Plaintiff seeks appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
17 performed significant work and expended litigation costs in prosecuting this matter with no
18 guarantee of payment. Yslas Decl. at ¶ 22. Plaintiff’s Counsel seeks preliminary approval of up to
19 one third (1/3) of the Gross Settlement Amount, currently estimated to be \$220,666.67, and up to
20 \$47,000.00 in reimbursement of litigation costs. Given the work performed in this matter, the
21 extensive information exchange, and the substantial recovery obtained on behalf of the Class,
22 Plaintiff’s Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas
23 Decl. At final approval, Plaintiff’s Counsel will fully brief the merits of its request for the award
24 of attorneys’ fees and litigation costs.

25 **E. The Administration Costs are Reasonable**

26 The Parties have agreed upon using ILYM Group Inc. to administer this Settlement.
27 Settlement Agreement at § 1.2. Plaintiff seeks preliminary approval of \$7,750.00 for ILYM Group
28 Inc. to administer this Settlement pursuant to its bid. See Yslas Decl. at ¶ 36, Exhibit 5. The services

covered by this payment are extensive and necessary to carry out the Settlement administration.
Id.

V. CONCLUSION

The Parties have negotiated a fair and reasonable settlement of the class claims in light of the risks presented in this case. Plaintiff has 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.

Dated: February 23, 2026

WILSHIRE LAW FIRM, PLC

By: /s/ Courtney M. Miller
Courtney M. Miller
Attorneys for Plaintiff