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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ORANGE**

ESABELLA SERPA, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

PRIDE BAKERIES, LLC DBA PANERA BREAD BAKERY CAFES, a California limited liability company; PRIDE BAKERIES II, LLC DBA PANERA BREAD BAKERY CAFES, a California limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2024-01376508-CU-OE-CXC

*[Assigned for All Purposes to the Hon. Melissa R. McCormick, Dept. CX-105]*

**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 8, 2026
Time: 2:00 p.m.
Dept.: CX-105

Reservation No.: 74717354

Action Filed: January 29, 2024

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

**PLEASE TAKE NOTICE** that on January 8, 2026, at 2:00 p.m., or as soon thereafter as the matter may be heard in Department CX-105 of the above-entitled Court, located at 751 W. Civic Center Drive, Santa Ana California 92701, Plaintiff Esabella Serpa ("Plaintiff") will and hereby does move this Court for an Order:

1. Granting preliminary approval of the proposed Class Action and PAGA Settlement Agreement ("Settlement");
2. Conditionally certifying the proposed Class for settlement purposes only;
3. Appointing Plaintiff as the Class Representative;
4. Appointing John G. Yslas, Jeffrey C. Bils, Aram Boyadjian, Andrew Sandoval, Emily K. Borman, and Courtney M. Miller of Wilshire Law Firm, PLC as Class Counsel;
5. Appointing Apex Class Action Administration as the Settlement Administrator; and
6. Setting a final approval hearing date.

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

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of John G. Yslas, the Declaration of Esabella Serpa, 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: December 1, 2025 **WILSHIRE LAW FIRM, PLC**

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

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), 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 Pride Bakeries, LLC DBA Panera Bread Bakery Cafes and Pride Bakeries II, LLC DBA Panera Bread Bakery Cafes (collectively "Defendants"). The proposed Class is defined as all persons who worked for any Defendant in California as an hourly-paid or non-exempt employee ("Class Members") at any time during the period from August 4, 2019, through January 25, 2025 ("Class Period"). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of $585,000.00, which will be distributed to approximately 1,872 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 $195,000.00) and up to $21,000.00 in reimbursement of litigation costs to Plaintiff's Counsel;
3. A class representative service payment of up to $5,000.00 to Plaintiff;
4. Costs of settlement administration of up to $16,990.00; 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 any Defendant in California as an hourly-paid or non-exempt employee ("Aggrieved Employees") at any time during the period from July 25, 2022, through January 25, 2025 ("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 Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Apex Class Action Administration 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 January 29, 2024, Plaintiff filed this putative class action against Defendants Pride Bakeries, LLC DBA Panera Bread Bakery Cafes and Pride Bakeries II, LLC DBA Panera Bread Bakery Cafes (collectively "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; (8) failure to produce requested employment records; and (9) unfair business practices ("Class Action"). Declaration of John G. Yslas in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Yslas Decl.") at ¶ 3.

On September 28, 2023, Plaintiff provided written notice to the LWDA and Defendant of the specific provisions the Labor Code alleged to have been violated, including the facts and theories in support. Yslas Decl. at ¶ 4, Exhibit 1. The LWDA did not notify Plaintiff that it intended to investigate within 65 days of this written notice. *Id*. On November 29, 2023, Plaintiff filed a separate action for civil penalties under PAGA, Orange County Superior Court Case No. 30-2023-01364775-CU-OE-CXC ("PAGA Action"). *Id*. On March 21, 2024, the Court deemed the PAGA Action and Class Action related. *Id*.

On November 21, 2024, the Parties participated in a private full-day mediation with mediator Daniel J. Turner, Esq. Yslas Decl. at ¶ 5. With the help of the mediator, the Parties agreed on general settlement terms. *Id*. at ¶ 6. The Parties negotiated the terms of the Settlement over the next several months and memorialized their agreement in a Memorandum of Understanding on September 30, 2025. *Id*. The Parties finalized the Settlement on November 11, 2025. Id., Exhibit 2 ("Settlement Agreement"). Before the hearing on Plaintiff's Motion for Preliminary Approval of Settlement of Class Action and PAGA Settlement, the Parties will file a stipulation requesting consolidation of the Class Action and PAGA Action for settlement purposes. Yslas Decl. at ¶ 6.

On December 1, 2025, Plaintiff submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 8, Exhibit 3.

## 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 $585,000.00. Settlement Agreement at §§ 1.23, 3.1. Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) a class representative service payment of up to $5,000.00 to Plaintiff; (2) attorneys' fees of up to one third (1/3) of the Gross Settlement Amount (currently $195,000.00) and reimbursement of litigation costs of up to $21,000.00 to Plaintiff's Counsel; (3) costs of settlement administration of up to $16,990.00 to Apex Class Action Administration; 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). *Id.* at § 3.2. After all requested deductions are made, the remaining Net Settlement Amount available to be paid to Participating Class Members as Individual Class Payments is currently estimated to be $322,010.00. Yslas Decl. at ¶ 20.

Individual Class Payments will be calculated based on the number of Workweeks worked by each Class Member during the Class Period. *Id*. at § 3.2.4. For tax purposes, the individual class payments will be allocated 10% to wages and 90% to interest, reimbursement, and penalties. *Id*. at § 3.2.4.1. Defendant will separately pay any and all employer payroll taxes owed on the wage positions of the individual class payments separate from the Gross Settlement Amount. *Id*. at 3.1.

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

Any deductions not approved by the Court will be retained by the Settlement Administrator in the Net Settlement Amount. *Id.* at §§ 1.29, 3.2.1, 3.2.2, 3.2.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue." *Id.* at § 4.4.3. None of the Gross Settlement Amount will revert to Defendant. *Id*. 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). *See* Exhibit A to Settlement Agreement. It provides information regarding the nature of this lawsuit, a summary of the settlement terms, the formula used for calculating individual class and PAGA payments and instructions to dispute the calculations, instructions on how to opt-out of or object to the Settlement, the date, time, and location of the final approval hearing, and the amounts sought for the class representative service payment, attorneys' fees and litigation costs, and settlement administration costs. *See generally, id*. The Class Notice also notifies Class Members that they do not need to submit a claim in order to participate in the Settlement and receive a payment. *See id*. The Settlement Administrator will mail Class Members the Class Notice by first-class mail in both English and Spanish. Settlement Agreement at § 7.4.2.

If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the Class Notice within five (5) days to any 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 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose Class Notice is re-mailed. *Id*. at §7.4.4. The Parties agreed that an allocation of 45 days, plus 14 extra days in the case of remailing, provides sufficient time for Class Members to object or exclude themselves from the Settlement. *Id*. §§ 1.44, 7.4.4. Plaintiff's Counsel asserts that a 45-day period is superior to a 60-day period because the Class Members will still have plenty of time to object or exclude themselves from the Settlement, however it avoids the Settlement approval process potentially being delayed from a lengthier notice period. If the Settlement approval process were delayed by a lengthier notice period of 60 days, that would potentially result in approximately 1,872 Class Members cumulatively waiting 28,080 extra days to receive their payments from the Settlement (1,872 Class Members x 15 extra days). As such, the Parties believe the 45-day notice period is appropriate.

**C. Proposed Releases**

Released Class Claims: Effective on the date when Defendant fully funds the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, "[a]ll 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); (8) failure to produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432, and 1198.5); and (9) 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, 5.2.

Released PAGA Claims: Effective on the date when Defendant fully funds the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, "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 Plaintiff's 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 produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432, and 1198.5); (9) failure to pay all earned wages twice per month and unlawfully withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (10) failure to maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor Code §§ 1174, and 1174.5); (11) recordkeeping requirement violations (pursuant to Cal. Labor Code §§ 226.6, 558.1, 1174, 1174.5, 1198 and 1199); (12) willful misclassification (pursuant to Cal. Labor Code § 226.8); (13) retaliation (pursuant to Cal. Labor Code § 1102.5); and (14) 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, 5.3.

Only Plaintiff will agree to a general release and a waiver of Civil Code § 1542. Settlement Agreement at § 5.1.

## IV. THE PROPOSED SETTLEMENT AGREEMENT MEETS ALL CRITERIA FOR PRELIMINARY APPROVAL

### A. Provisional Certification of the Class is Appropriate

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

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### 1. The Proposed Class is Numerous and Ascertainable

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

The Class here consists of all persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the Class Period. Settlement Agreement at § 1.5. The Class is also readily ascertainable from Defendants' business records, because all Class Members are or were employees of Defendants. Defendants' records show there are approximately 1,872 Class Members, making joinder of all Class Members impracticable. Yslas Decl. at ¶ 9.

### 2. A Well-Defined Community of Interest Exists

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

#### a. Common Questions Predominate

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

Plaintiff has alleged that Defendant 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, timely payment of wages upon separation of employment, and timely production of requested employment records. Yslas Decl. at ¶ 10. These allegations present common factual and legal questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, pay, meal period, rest period, reimbursement, and employment record production 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 Defendant's 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. *Medrazo v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

Plaintiff has alleged that she and Class Members were employed by the same Defendant and injured by Defendant's common wage and hour policies and practices, including Defendant's scheduling, timekeeping, pay, meal period, rest period, reimbursement, and employment record production policies. *See* Yslas Decl. at ¶ 10. Through informal discovery, Plaintiff confirmed that these challenged policies and practices applied to Plaintiff as well as Class Members. *See id.* at ¶ 8. 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 Esabella Serpa in Support of Motion for Preliminary Approval ("Serpa Decl.") at ¶¶ 4-6. Plaintiff has demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit, providing information to her attorneys, keeping in regular contact with her attorneys regarding the case, meeting with her attorneys in advance of mediation, and reviewing the proposed Settlement to make sure it was fair. *Id.* at ¶ 7.

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*, Yslas Decl. Therefore, Plaintiff should be appointed Class Representative, and her counsel should be appointed Class Counsel.

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

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

### B. The Settlement Meets the Standards for Preliminary Approval

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

#### 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. *Id.* at ¶ 8. Plaintiff's Counsel assessed the value to the class claims using the data and documents Defendants produced in informal discovery, including the number of Class Members currently and formerly employed by Defendants, the number of Workweeks during the Class Period, the number of Aggrieved Employees and PAGA Periods during the PAGA Period, the average rate of pay for Class Members, all documents concerning Plaintiff, Defendants' wage and hour policy documents, and a sampling of timekeeping and payroll records for Class Members. *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 ¶¶ 21-33. 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 the exposure Plaintiff's Counsel calculated is substantial, the various risks at succeeding at class certification and through trial affected the valuation of the claims for settlement purposes. Yslas Decl. at ¶ 11.

<u>Minimum and Overtime Wages</u>: Plaintiff's unpaid minimum and overtime wage claims were based on the allegation that Defendants required Class Members to routinely perform work duties off the clock. Yslas Decl. at ¶ 12. For example, Plaintiff alleges that Defendants' managers routinely instructed her and other Class Members clock out for their meal periods but continue to work to meet Defendants' demands. Based on these allegations, Plaintiff's Counsel conservatively estimated that Class Members worked one (1) hour off the clock per week as overtime in calculating potential exposure to be approximately $1,584,490.14 for these claims (65,938 workweeks x $16.02 hourly rate x 1.5 overtime rate of pay x 1.00 hour of unpaid work per workweek). Because this claim would have relied heavily on Class Member testimony and would

not be evidenced in Defendants' time and payroll records, the risk of succeeding at class certification was substantial. Accordingly, Plaintiff's Counsel applied a risk discount based on a 40% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $253,518.42 ($1,584,490.14 x 40% x 40%).

Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant meal periods or pay meal period premiums in lieu thereof. Yslas Decl. at ¶ 13. For example, Plaintiff alleges that she and the other Class Members regularly experienced missed, late, short, and/or interrupted meal periods while working for Defendants due to Defendants' demanding workload and understaffing. *Id*. Plaintiff's Counsel's expert found a violation rate of approximately 26% in Defendants' time and payroll records for shifts greater than five (5) hours. *Id*. Therefore, potential liability for the meal period claims is approximately $864,453.94 (207,542 shifts greater than 5.00 hours x $16.02 hourly rate x 26% violation rate). *Id*. However, Defendants argued that Class Members were covered by prospective standing meal period waivers. *Id*. Accordingly, Plaintiff's Counsel applied a risk discount based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $172,890.79 ($864,453.94 x 50% x 40%). *Id*.

Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. Yslas Decl. at ¶ 14. For example, Plaintiff alleges that she and the other Class Members regularly missed rest periods while working for Defendants due to Defendants' demanding workload and understaffing. *Id*. Based on these allegations, Plaintiff's Counsel applied a 100% violation rate to all shifts of 3.5 hours or longer. *Id*. Therefore, potential liability for the rest period claims is approximately $3,809,363.76. *Id*. However, Plaintiff's Counsel discounted this figure to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest period. *Id*. Because this claim would have relied exclusively on Class

Member testimony, Plaintiff's Counsel discounted this claim based on a 30% chance of succeeding at class certification and a 20% chance of succeeding at trial, yielding a realistic damage estimate of approximately $228,561.83 ($3,809,363.76 x 30% x 20%). *Id*.

Reimbursements: Plaintiff's reimbursement claim was based on the allegation that Defendants failed to indemnify Class Members for expenses incurred as a direct result of performing their job duties for Defendants. Yslas Decl. at ¶ 15. For example, Plaintiff alleges that Defendants required her and other Class Members to use their personal cell phones to contact their managers, but Defendants failed to reimburse them for such work-related expenses. *Id*. For purposes of calculating Defendants' liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel estimated that Defendants were liable to each class member for $30 per month, or $7.50 per workweek, in unreimbursed expenses, for a total amount of approximately $494,535.00 ($7.50 x 65,938 workweeks). *Id*. Plaintiff's Counsel discounted this figure based on an evaluation of a 30% chance of succeeding at class certification and a 30% chance of succeeding at trial to account for the difficulty of certifying and proving expense reimbursement claims, yielding a realistic damage estimate of approximately $44,508.15 ($494,535.00 x 30% x 30%). *Id*.

In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-clock claim, meal period violations, and rest period violations is approximately $6.26 million, but after factoring in the risk and uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's realistic estimated recovery for the non-penalty wage claims is approximately $654,971.04. Yslas Decl. at ¶ 16.

Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages owed, Defendants owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 17. With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated that Defendants' realistic potential liability is approximately $277,011.15. *Id*. Defendants' maximum potential liability for waiting time penalties is approximately $3,515,252.58 (1,161 employees x $16.02 hourly rate x 6.30 average hours/day x 30 days) based on approximately 1,161 terminated class members during the 3-year statute of limitations period; and for inaccurate wage statements approximately $1,101,600.00 ([634 employees x 1 initial violation/employee x $50 for an initial violation] + [(11,333 pay periods - 634 initial violations) x $100 for each subsequent violation]) for inaccurate wage statements based on approximately 634 employees who worked during the 1-year statute of limitations period and approximately 11,333 pay periods in that statutory timeframe. *Id*. In light of the foregoing, Plaintiff's Counsel believes that it would be unrealistic to expect the Court to award the full $4,616,852.58 in penalties given Defendants' defenses, the contested nature of Plaintiff's claims, the challenges of establishing willfulness as applicable, and the discretionary nature of penalties. *Id*. Considering that the underlying wage claims are realistically estimated to be approximately $654,971.04, such a disproportionate award would also raise due process concerns. *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 $210,915.15 ($3,515,252.58 x 30% x 20%) for waiting time penalty claims, and approximately $66,096.00 ($1,101,600.00 x 30% x 20%) for wage statement penalty claims, or approximately $277,011.15 total for statutory penalties. *Id*.

<u>PAGA</u>: For the PAGA claim, Plaintiff's Counsel determined that Defendants' potential exposure could potentially reach $1,455,200.00, assuming the initial $100 penalty would apply for each of the 14,552 pay periods in the PAGA Period. Yslas Decl. at ¶ 18. 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 $145,520.00 ($1,455,200.00 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 approximately 21% of the realistic maximum damages for PAGA penalties ($30,000.00 / $145,000.00).

Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum recovery for all claims, including penalties, would be approximately $1,122,010.34. Yslas Decl. at ¶ 19. This means that the gross settlement figure represents approximately 52% of the realistic maximum recovery ($585,000.00 / $1,122,010.34). *Id*. Considering the risk and uncertainty of prevailing at class certification and at trial, this is a good result for the Class. Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. *Id*.

Based on the figures in the Settlement Agreement, the Net Settlement Amount available for class settlement payments is currently estimated to be $322,010.00 for approximately 1,872 Class Members. Yslas Decl. at ¶ 20. As a result, each Settlement Class Member would be eligible to receive an average net benefit of approximately $172.01. *Id*. Based on the estimated Net Settlement Amount available for individual class payments and there being approximately 65,938 workweeks in the Class Period, the estimated weekly valuation for individual class payments is $4.88 ($322,010.00 / 65,938 workweeks). *Id*. Based on these current estimates, the lowest estimated individual class payment could be $4.88 ($4.88 x 1 week) and the highest estimated individual class payment could be $1,395.68 ($4.88 x approximately 286 weeks in the Class Period). *Id*. Based on these current estimates and the fact that Plaintiff worked for Defendants for approximately 66 weeks during the Class Period, Plaintiff's estimated individual class payment is $322.08 ($4.88 x approximately 66 weeks). *Id*.

### C. The PAGA Allocation is Reasonable

Where settlements negotiate a good faith amount for PAGA penalties and "there is no indication that this amount was the result of self-interest at the expense of other" class members, such amounts are generally considered reasonable. (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133 at *1, 9.) Courts have approved amounts for PAGA penalties in the range of zero to two percent of the total maximum amount of the Settlement. (*Id*. [approving a PAGA payment of 0.3%, or $1,500]; *see also Jack v. Hartford Fire Ins. Co.* (S.D. Cal. Oct. 13, 2011) 2011 WL 4899942 at *6 [approving a PAGA payment of 0.25%]; *McKenzie v. Fed. Express Corp*. (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 at *5 [acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement].) Here, the amount to be paid to the LWDA is larger than many other PAGA settlement amounts approved by the courts where seemingly nominal amounts were allocated for such claims. (*See, e.g., Zubia v. Shamrock Foods Co*. (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431, at

*14 [approving a PAGA settlement of 0.1%]; *Hopson, supra*, 2008 WL 3385452, at *1 [approving a PAGA settlement of 0.3% or $1,500]; *Garcia v. Gordon Trucking, Inc*. (E.D. Cal. Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *3 [approving a PAGA settlement of 0.27%].) Here, the Parties negotiated a good faith amount of $30,000.00, 75% percent of which ($22,500.00) will be paid to the LWDA and 25% ($7,500.00) to be distributed to the Aggrieved Employees. Settlement Agreement at § 3.2.5. The $30,000.00 settlement amount equates to approximately 5.1% of the Gross Settlement Amount, which far exceeds amounts that are routinely approved. Yslas Decl. at ¶ 18. The Parties negotiated to allocate approximately 5.1% of the Settlement to PAGA Penalties in good faith and this amount is reasonable considering that the realistic valuation of PAGA Penalties is approximately $145,520.00. *Id*. Based on the $7,500.00 allocated for PAGA Penalties for Aggrieved Employees and there being an estimated 14,552 PAGA Pay Periods, the estimated pay period valuation for individual PAGA payments is $0.52 per pay period ($7,500.00 / 14,552 pay periods). *Id*.

**D. The Requested Service Payment is Reasonable**

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

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

**E. The Requested Attorneys' Fees and Costs Are Reasonable**

The purpose of an attorneys' fees 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 (1/3) or more of the potential value of the common fund. *See Chavez*, 162 Cal.App.4th at 66, fn. 11 ("Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.").

Plaintiff seeks 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. Yslas Decl. at ¶ 21. Plaintiff's Counsel seeks preliminary approval of not more than one third (1/3) of the Gross Settlement Amount, currently estimated to be $195,000.00, and up to $21,000.00 for reimbursement of litigation costs. *See also* Yslas Decl. at ¶ 37. Given the work performed in this matter, the extensive information exchange, and the substantial recovery obtained on behalf of the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs.

**F. The Administration Costs are Reasonable**

The Parties have agreed upon using Apex Class Action LLC to administer this Settlement. Settlement Agreement at § 1.2. Plaintiff seeks preliminary approval of $16,990.00 for Apex Class Action LLC's administration of this Settlement pursuant to its will-not-exceed bid. Yslas Decl. at ¶ 36, Exhibit 4. The services covered in its bid are extensive and necessary to carry out the Settlement administration. This settlement bid amounts to just approximately 3% of the Gross Settlement Amount.

## 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: December 1, 2025

**WILSHIRE LAW FIRM, PLC**

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