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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

CARLOS FRANCISCO LOPEZ,
individually, and on behalf of all others
similarly situated,

Plaintiff,

v.

ADRIANA'S INSURANCE SERVICES
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 2023CUOE013516

*[Assigned for all purposes to: Hon. Benjamin F.
Coats, Dept. 43]*

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

Preliminary Approval Hearing:

Date: September 18, 2026

Time: 8:30 a.m.

Dept.: 43

Complaint filed: August 31, 2023

Trial date: Not set

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

2 **PLEASE TAKE NOTICE** that on September 18, 2026, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard in Department 43 of the Superior Court of California,
4 County of Ventura, located at 800 South Victoria Avenue, Ventura, California 93009, Plaintiffs
5 Carlos Francisco Lopez and Sunshine Miriam Gonzalez (collectively, the “Plaintiffs”) will and
6 hereby do move this Court for an Order:

- 7 1. Granting preliminary approval of the proposed Class Action and PAGA Settlement
8 Agreement and Class Notice (“Settlement Agreement”);
9 2. Conditionally certifying the proposed Class (“Class” or “Class Member”) for
10 settlement purposes only;
11 3. Appointing Plaintiffs as the Class Representatives;
12 4. Appointing Wilshire Law Firm, PLC as Class Counsel;
13 5. Appointing Phoenix Class Action Administration as the 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 Plaintiffs and Plaintiffs’ 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, Declaration of Carlos Francisco Lopez,
22 Declaration of Sunshine Miriam Gonzalez, and on all records and documents on file, together
23 with such oral and documentary evidence that may be presented at the hearing on this matter.

24 Respectfully submitted,

25 Dated: August 26, 2026

WILSHIRE LAW FIRM, PLC

26 By: _____

27 John G. Yslas
28 Arrash T. Fattahi
Arman A. Salehi
Giancarlo Recinos
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs seek preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), against Defendants Adriana’s Insurance Services Inc. (“AIS”) and AGI Business Group, Inc. (“AGI”) (collectively, the “Defendants”). The proposed Class is defined as a non-exempt employee who is or was employed by AIS in the state of California (“Class Members”) at any time during the period from August 31, 2019, to the date of preliminary approval of the settlement (“Class Period”). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of \$950,000.00, in which the Net Settlement Amount will be distributed to approximately 668 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 \$316,666.67) and up to \$40,000.00 in reimbursement of litigation costs to Plaintiffs’ Counsel;
3. Class Representative Service Payments of up to \$10,000.00 to each Plaintiff (\$20,000.00 total);
4. Costs of settlement administration of up to \$11,000.00; and
5. Allocation of \$50,000.00 to PAGA penalties, seventy-five percent (75%) of which (\$37,500.00) will be paid to the Labor and Workforce Development Agency (“LWDA”), and twenty-five percent (25%) of which (\$12,500.00) will be paid to a non-exempt employee who is or was employed by either of the Defendants (Adriana’s Insurance Services Inc. and/or AGI Business Group, Inc.) within the State of California (“Aggrieved Employees”) at any time during the period from September 26, 2022, to the date of preliminary approval (“PAGA Period”).

The Settlement meets all criteria for preliminary approval and falls within the range of

1 reasonableness given the risks and expenses of further litigation. The Settlement was reached
2 through informed, arm's length bargaining between experienced attorneys with the assistance of
3 an experienced neutral. As such, Plaintiffs requests that the Court grant preliminary approval of
4 the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as
5 the Class Representatives, appoint Plaintiffs' Counsel as Class Counsel, appoint Phoenix Class
6 Action Administration ("Phoenix") as the Administrator, authorize the Administrator to administer
7 notice of the Settlement to the Class, and set a final approval hearing date.

8 **II. PROCEDURAL HISTORY**

9 On August 31, 2023, Plaintiff Lopez filed this putative class action against Defendant
10 Adriana's Insurance Services Inc. alleging: (1) failure to pay minimum and straight time wages; (2)
11 failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and
12 permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide
13 accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8)
14 unfair business practices. Declaration of John G. Yslas in Support of Plaintiffs' Motion for
15 Preliminary Approval of Class Action and PAGA Settlement ("MPA") ("Yslas Decl.") at ¶ 3.

16 On September 26, 2023, Plaintiff Lopez provided written notice to the LWDA and
17 Defendant (amended on June 11, 2026) of the specific provisions of the Labor Code alleged to have
18 been violated, including the facts and theories in support. Yslas Decl. at ¶ 4, Exhibit 1. The LWDA
19 did not notify Plaintiff that it intended to investigate within 65 days of this written notice. *Id.*
20 Therefore, on August 21, 2026, the Parties filed a Joint Stipulation for Leave to File a First
21 Amended Class & Representative Action Complaint ("Joint Stipulation") in this Class Action
22 seeking to add a cause of action for civil penalties under PAGA, adding an additional named
23 plaintiff—Sunshine Miriam Gonzalez—and adding Defendant AGI Business Group, Inc. *Id.* As
24 of the filing of this Motion, the Parties had not received the signed copy of the Joint Stipulation.
25 *Id.* However, once the signed Joint Stipulation is received, Plaintiff will file the amended
26 complaint. *Id.*

27 On February 3, 2025, and again on September 3, 2025, the Parties participated in a private
28 mediation with Todd Smith, Esq. *Id.* at ¶ 5. The mediator made a proposal, which was accepted

1 by the Parties. *Id.* The Parties negotiated the terms of the Settlement over the next several months,
2 which was finalized on July 14, 2026. *Id.* at ¶ 6, Exhibit 2 (“Settlement Agreement”). On August
3 26, 2026, Plaintiffs submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 7, Exhibit
4 3.

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 case for a Gross Settlement
8 Amount of \$950,000.00. Settlement Agreement at § 3.1. Subject to Court approval, the following
9 payments will be deducted from the Gross Settlement Amount: (1) Class Representative Service
10 Payments of up to \$10,000.00 to each Plaintiff (\$20,000.00 total); (2) attorneys’ fees of up to one
11 third (1/3) of the Gross Settlement Amount (currently \$316,666.67) and reimbursement of
12 litigation costs of up to \$40,000.00 to Plaintiffs’ Counsel; (3) costs of settlement administration of
13 up to \$11,000.00 to Phoenix; (4) Individual Class Payments to Class Members; and (5) PAGA
14 Penalties in the amount of \$50,000.00, which will be allocated 75% to the LWDA (\$37,500.00)
15 and 25% to Aggrieved Employees (\$12,500.00). *Id.* at § 3.2 *et seq.* After all requested deductions
16 are made, the remaining Net Settlement Amount is currently estimated to be \$512,333.33.

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

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

26 Any deductions not approved by the Court will be retained by the Settlement Administrator
27 in the Net Settlement Amount. *Id.* at §§ 3.2.1, 3.2.2, 3.2.3, 3.2.5. Funds from any uncashed checks
28 will be transmitted by the Administrator to the California Controller’s Unclaimed Property Fund

1 in the name of the Class Member. *Id.* at § 4.4.3. None of the Gross Settlement Amount will revert
2 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 payments, 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 three (3) business days to the forwarding address provided by the U.S. Postal
16 Service. Settlement Agreement at § 7.4.3. If no forwarding address is provided, the Settlement
17 Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the
18 most current address obtained. *Id.* The deadline to opt-out of the Settlement or to submit an
19 objection or dispute will be extended by fourteen (14) days for all Class Members whose Class
20 Notice was remailed. *Id.* at §7.4.4.

21 **C. Proposed Release**

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

25 Released Class Claims:

26 As of the date of Judgment, all Class Members who do not properly opt-out of the
27 Settlement will fully and finally release the Released Parties (as defined above in Section
28 1.40), and each and all of them, from any and all Class Released Claims. The "Class
Released Claims" include all claims asserted in the Action, as amended, and/or PAGA

1 Notice and/or arising out of, reasonably related to, or based on the same factual predicate
2 as the facts alleged in the operative complaint and PAGA Notice. The Class Released
3 Claims include all claims for unpaid wages, including, failure to pay minimum wages,
4 straight time compensation, overtime compensation, double-time compensation, and
5 interest; the calculation of the regular rate of pay; wages related to alleged illegal time
6 rounding; missed/short/late/interrupted meal period and/or rest period wages/premiums;
7 failure to provide meal periods; failure to authorize and permit rest periods; the calculation
8 of meal period and/or rest period premiums; wages and/or penalties related to alleged auto-
9 deduction of meal periods; wage deductions; payment for all hours worked, including off-
10 the-clock work and/or alleged prohibition of recording actual time worked; failure to pay
11 overtime compensation, double-time compensation, meal and rest period premiums, sick
12 pay, and reporting time pay at the regular rate of pay; wage statements; failure to timely
13 pay all wages during employment; failure to timely pay all wages due at separation of
14 employment; failure to keep/maintain accurate records including payroll records and
15 records of hours worked and meal periods; failure to reimburse business expenses; unfair
16 business practices related to the Class Released Claims; penalties, including, but not limited
17 to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and
18 waiting-time penalties; and attorneys' fees and costs; all claims related to the Class
19 Released Claims arising under: the California Labor Code (including, but not limited to,
20 sections 200, 201-203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5,
21 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1,
22 1197.2, 1198 *et seq.*, 1198.5, 1199, 2698 *et seq.*, 2699 *et seq.*, 2800, 2802 *et seq.*); the Wage
23 Orders of the California Industrial Welfare Commission; the California Private Attorneys
24 General Act of 2004 ("PAGA"); 8 CCR section 11040; California Business and Professions
25 Code section 17200, *et seq.*; California Code of Civil Procedure, including but not limited
26 to Section 1021.5; the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*; and
27 federal common law.

17 Participating Class Members who timely cash or otherwise negotiate their Settlement
18 Payment Check will be deemed to have opted into the Action for purposes of the FLSA
19 and, as to those Class Members, the Released Class Claims include any and all claims the
20 Class Members may have under the FLSA asserted in the Action, as amended, arising from
21 or related to the facts and claims alleged in the Action, as amended, or that could have been
22 alleged in the Action based on the facts and claims alleged in the Action, as amended,
23 during the Class Period. Only those Class Members who timely cash or otherwise negotiate
24 their Settlement Payment Check will be deemed to have opted into the Action for purposes
25 of the FLSA and thereby release and waive any of their claims under the FLSA arising
26 under or relating to the alleged claims.

23 The following language will be printed on the reverse of each Settlement Payment Check,
24 or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge
25 that I read, understood, and agree to the terms set forth in the Notice of Class Action
26 Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the
27 [Action], elect to participate in the settlement of the FLSA claims, and agree to release all
28 of my FLSA claims that are covered by the Settlement." Nothing herein shall be construed
to release FLSA claims by any Class Member unless that person affirmatively opts into the
FLSA portion of the settlement by endorsing, cashing, or otherwise negotiating the
Settlement Payment Check, except to the extent a final judgment is otherwise given

preclusive effect by law.

This release excludes the release of claims not permitted by law.

Settlement Agreement at § 5.2.

Released PAGA Claims:

All Aggrieved Employees, including those who timely and effectively exclude themselves from the Released Class Claims (Settlement), shall nevertheless be bound by the Released PAGA Claims and shall receive a pro rata portion of 25% of the PAGA Penalties. All Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, assigns, and the LWDA, shall release the Released Parties from all known and unknown claims for civil penalties under PAGA that were asserted in the Action, and any claims alleged, or could have been alleged, in the Action, as amended, based on the allegations asserted in the Action, as amended, and/or in the PAGA Notice, including, but not limited to, claims relating to failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged illegal time rounding; missed/short/late/interrupted meal period and/or rest period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods; the calculation of meal period and/or rest period premiums; wages and/or penalties related to alleged auto-deduction of meal periods; wage deductions; payment for all hours worked, including off-the-clock work and/or alleged prohibition of recording actual time worked; failure to pay overtime compensation, double-time compensation, meal and rest period premiums, sick pay, and reporting time pay at the regular rate of pay; wage statements; failure to timely pay all wages during employment; failure to timely pay all wages due at separation of employment; failure to keep/maintain accurate records including payroll records and records of hours worked and meal periods; failure to reimburse business expenses; unfair business practices related to the Class Released Claims; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related to the Class Released Claims arising under: the California Labor Code (including, but not limited to, sections 200, 201-203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198 *et seq.*, 1198.5, 1199, 2698 *et seq.*, 2699 *et seq.*, 2800, 2802 *et seq.*); the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 ("PAGA"); 8 CCR section 11040; California Code of Civil Procedure, including but not limited to Section 1021.5 ("Released PAGA Claims"). Aggrieved Employees' Released PAGA Claims are limited to the PAGA Period.

Settlement Agreement at § 5.3.

Only Plaintiffs will agree to a general release and a waiver of Civil Code § 1542. Settlement Agreement at §§ 5.1, 5.1.1.

1 **IV. THE PROPOSED SETTLEMENT AGREEMENT MEETS ALL CRITERIA FOR**
2 **PRELIMINARY APPROVAL**

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

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

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

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

21 The Class Member here consists of a non-exempt employee who is or was employed by
22 AIS in the state of California at any time during the Class Period. See Settlement Agreement at §
23 1.10, 1.11. The Class is also readily ascertainable from Defendants’ business records, because all
24 Class Members are or were employees of Defendants. *Id.* Defendants’ records show there are
25 approximately 668 Class Members, making joinder of all Class Members impracticable. Yslas
26 Decl. at ¶ 9.

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

28 The community of interest requirement embodies three factors: (1) predominant common

1 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
2 (3) class representatives who can adequately represent the class. *Brinker*, 53 Cal.4th at 1021.

3 *a. Common Questions Predominate*

4 In determining whether common issues “predominate,” courts consider both plaintiff’s
5 legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1,
6 28-29 (2014). The “predominate common questions” factor does not require that all class members
7 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
8 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
9 permit class-wide assessment, and whether individual variations in proof on those issues are
10 manageable. *Id.*

11 Plaintiffs have alleged that Defendants maintained common employment policies and/or
12 practices that unlawfully deprived Class Members of wages, meal periods, rest periods,
13 reimbursements for business expenses, accurate wage statements, and timely payment of wages
14 upon separation of employment. Yslas Decl. at ¶ 10. These allegations present common factual
15 and legal questions of, *inter alia*, whether Defendants applied the same scheduling, timekeeping,
16 pay, meal period, rest period, and reimbursement policies to all Class Members, whether these
17 policies and practices resulted in Labor Code violations, whether Defendants’ conduct was
18 intentional, and whether Class Members are entitled to damages and/or penalties. *Id.* These
19 common questions could be resolved using Class Members’ time records, payroll records,
20 testimony from Defendants’ designated representative(s), and Class Members’ testimony. *Id.*
21 Therefore, the Court can and should exercise its discretion to grant conditional class certification
22 for settlement purposes.

23 *b. Plaintiffs are Typical of the Class*

24 Typicality does not require that the representative plaintiff’s claims and those of the class
25 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
26 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th
27 260 (2018). Typicality does not require that a plaintiff’s claims be identical to those of other class
28 members, only that their claims and the defenses applicable to them are sufficiently similar to those

1 of other class members that a named plaintiff is able to adequately represent the class and focus on
2 common issues. *Medrazo v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

3 Plaintiffs have alleged that they and Class Members were employed by the same
4 Defendants and injured by Defendants' common wage and hour policies and practices, including
5 Defendants' scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies.
6 See Yslas Decl. at ¶ 10. Through informal discovery, Plaintiffs confirmed that these challenged
7 policies and practices applied to Plaintiffs and Class Members alike. See *id.* at ¶ 8. Therefore,
8 Plaintiffs' claims and Class Members' claims arise from the same challenged employment policies
9 and practices and are based on the same legal theories.

10 c. Plaintiffs and Plaintiffs' Counsel Will Adequately Represent the
11 Class

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

18 Plaintiffs' interests are coextensive with Class Members' interests. Declaration of Carlos
19 Francisco Lopez in Support of Plaintiffs' MPA ("Lopez Decl.") at ¶ 6. and Declaration of Sunshine
20 Miriam Gonzalez in Support of Plaintiffs' MPA ("Gonzalez Decl.") at ¶ 6. Plaintiffs have
21 demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit,
22 providing information to their attorneys, meeting with their attorneys regarding the claims, making
23 themselves available the day of mediation to answer questions, and reviewing the proposed
24 Settlement. *Id.* at ¶ 11.

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

28 **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 Member’s 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. 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.

1 a. *The Settlement is the Result of Arm's Length Negotiation*

2 Courts have recognized that the involvement of a respected mediator provides a high degree
3 of assurance that the settlement is the result of arm's length bargaining. *See Chavez v. Netflix, Inc.*,
4 162 Cal.App.4th 43, 52-53 (2008). The Settlement in this matter was the product of two full-day
5 mediation sessions with a respected mediator. Yslas Decl. at ¶ 5. The negotiations were adversarial,
6 conducted at arm's length, and tempered by the efforts of both sides to serve the interests of their
7 clients. *Id.*

8 b. *Sufficient Investigation and Discovery Have Been Conducted*

9 Prior to attending mediation, Plaintiffs' Counsel thoroughly investigated the claims,
10 applicable law, and potential defenses. Yslas Decl. at ¶ 8. Plaintiffs' Counsel assessed the value to
11 the class claims using the data and documents that Defendants produced in informal discovery,
12 including class data providing the number of Class Members, the number of workweeks in the
13 Class Period, and the number of pay periods in the PAGA Period, Plaintiffs' personnel
14 file/documents concerning Plaintiffs, Defendants' employee handbook(s), Defendants' written
15 wage-and-hour policies, job descriptions, and a random sampling of time and payroll records. *Id.*

16 c. *Plaintiffs' Counsel is Experienced in Similar Litigation*

17 Plaintiffs are represented by Wilshire Law Firm, PLC. Yslas Decl. at ¶ 1. Plaintiffs'
18 Counsel has extensive experience litigating wage and hour class actions on behalf of employees.
19 *See id.* at ¶¶ 21-31. Plaintiffs' Counsel has been involved as counsel in numerous class actions that
20 have resulted in millions of dollars in recovery. *See id.*

21 2. ***The Settlement is Reasonable Given the Strengths of Plaintiffs' Claims***
22 ***and the Risks and Expense of Further Litigation***

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

28 Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage claims

1 were based on the allegation that Defendants required Class Members to perform work duties
2 while off the clock, without compensation. Yslas Decl. at ¶ 12. For example, Plaintiffs alleged
3 that Defendants required them and other Class Members to finish work-related tasks while
4 clocked out. *Id.* For purposes of calculating Defendants' liability based on a best-case scenario for
5 Plaintiffs and the Class, Plaintiffs' Counsel assumed that all unpaid worktime should have been
6 paid at the overtime rate of pay and conservatively estimated that Defendants are liable for one-
7 half hour (0.5 hours) of unpaid worktime per workweek. *Id.* This results in potential exposure for
8 this claim of \$584,855.67 (43,012 workweeks x \$18.13 average hourly rate of pay x 0.5
9 hours/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class
10 Member testimony and would not be evidenced in Defendants' time and payroll records, the risk
11 of succeeding at class certification and trial was substantial. Accordingly, Plaintiffs' Counsel
12 applied a risk discount based on a 40% chance of succeeding at class certification and a 40% chance
13 of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
14 \$93,576.91 (\$584,855.67 x 40% x 40%). *Id.*

15 Meal Periods: Plaintiffs' meal period claim was based on the allegation that Defendants
16 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
17 in lieu thereof. Yslas Decl. at ¶ 13. For example, Plaintiffs alleged that Defendants required them
18 and other Class Members to perform work-related take during their meal periods. *Id.* Additionally,
19 Plaintiffs' Counsel's expert consultant determined there was a 50% meal period violation rate from
20 the sampling of Defendants' time and payroll records, where meal periods were short, late, or
21 missed. *Id.* Therefore, potential liability for the meal period claim is approximately \$1,996,928.85
22 (220,290 shifts over 5 hours x \$18.13 average hourly rate x 50% violation rate). *Id.* After taking
23 into account the difficulty of certifying and proving meal period claims, as well as Defendants'
24 contention that the claim lacks merit and that a 50% violation rate is unrealistic, Plaintiffs' Counsel
25 discounted this figure based on a 50% chance of succeeding at class certification and a 40% chance
26 of succeeding at trial, yielding a realistic damage estimate of approximately \$399,385.77
27 (\$1,996,928.85 x 50% x 40%). *Id.*

28 Rest Periods: Plaintiffs' rest period claim was based on the allegation that Defendants failed

1 to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu
2 thereof. Yslas Decl. at ¶ 14. For example, Plaintiffs alleged that Defendants required them and
3 other Class Members to be on-call during their work periods. *Id.* Furthermore, Plaintiffs alleged
4 that Defendants required them and other Class members to perform work-related tasks during their
5 rest periods. *Id.* Based on Plaintiffs' allegations and Plaintiffs' and other Class Members'
6 experience working for Defendants, Plaintiffs' Counsel applied a 100% violation rate to all
7 qualifying shifts during the Class Period. Therefore, Defendants' potential liability for the rest
8 period claim is approximately \$4,090,544.99 (225,623 shifts of 3.5 hours or longer x \$18.13
9 average hourly rate x 100% violation rate). *Id.* However, Plaintiffs' Counsel discounted this figure
10 to account for the difficulty of certifying and proving rest period claims, particularly because rest
11 periods do not have to be recorded, and to account for the possibility of Class Members voluntarily
12 choosing to forego a rest period. *Id.* Because this claim would have relied exclusively on Class
13 Member testimony, Plaintiffs' Counsel discounted this claim based on a 30% chance of succeeding
14 at class certification and a 20% chance of succeeding at trial, yielding a realistic damage estimate
15 of approximately \$245,432.70 (\$4,090,544.99 x 30% x 20%). *Id.*

16 Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that
17 Defendants failed to indemnify Class Members for expenses incurred as a direct result of
18 performing their job duties for Defendants, such as mandatory use of personal cell phones for work
19 purposes. Yslas Decl. at ¶ 15. For purposes of calculating Defendants' liability based on a best-
20 case scenario for Plaintiffs and the Class, Plaintiffs' Counsel estimated that Defendants were liable
21 to each Class Member for \$6.25 per workweek in unreimbursed expenses, for a total amount of
22 approximately \$268,825.00 (\$6.25 x 43,012 workweeks). *Id.* However, Defendants argued that
23 these expenses were not required by Defendants, and that it could not have known that these
24 expenses were being incurred. *Id.* Accordingly, Plaintiffs' Counsel discounted this claim based on
25 a 30% chance of succeeding at class certification and a 30% chance of succeeding at trial, yielding
26 a realistic damage estimate of approximately \$24,194.25 (\$268,825.00 x 30% x 30%). *Id.*

27 In sum, Plaintiffs' Counsel estimated that Plaintiffs' maximum recovery for the off-the-
28 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is

1 approximately \$6,672,329.51. Yslas Decl. at ¶ 16. However, after factoring in the risk and
2 uncertainty of prevailing at certification and trial, Plaintiffs' Counsel estimates that Plaintiffs'
3 realistic estimated recovery for these non-penalty wage claims is approximately \$738,395.38. *Id.*

4 Derivative Penalties: Plaintiffs alleged that as a result of Defendants' failure to pay all
5 wages owed, Defendants owed waiting time penalties and wage statement penalties. Yslas Decl.
6 at ¶ 17. With respect to Plaintiffs' derivative claims for statutory penalties, Plaintiffs' Counsel
7 estimated that Defendants' realistic potential liability is approximately \$141,444.60. *Id.*
8 Defendants' maximum potential liability for waiting time penalties is approximately
9 \$1,268,809.92 ([486 employees x \$18.13 average hourly rate of pay x 4.80 hours/day x 30 days]
10 based on approximately 486 formerly employed Class Members during the 3-year statute of
11 limitations period and an average shift length of 4.8 hours. *Id.* Defendants' maximum potential
12 liability for inaccurate wage statements is approximately \$1,088,600.00 ([366 employees x 1
13 initial violation/employee x \$50 for an initial violation] + [(11,069 pay periods - 366 initial
14 violations) x \$100 for each subsequent violation]). *Id.* In light of the foregoing, Plaintiffs' Counsel
15 believes that it would be unrealistic to expect the Court to award the full \$2,357,409.92 in statutory
16 penalties given Defendants' defenses, the contested nature of Plaintiffs' claims, the challenges of
17 establishing willfulness as applicable, and the discretionary nature of penalties. *Id.* Considering
18 that the underlying wage claims are realistically estimated to be approximately \$738,395.38, such
19 a disproportionate award would also raise due process concerns. *Id.* As such, Plaintiffs' counsel
20 discounted these figures to account for the risk and uncertainty of obtaining class certification and
21 prevailing at trial, resulting in a realistic evaluation of approximately \$76,128.60 for waiting time
22 penalty claims (\$1,268,809.92 x 30% x 20%), and approximately \$65,316.00 for wage statement
23 penalty claims (\$1,088,600.00 x 30% x 20%), or approximately \$141,444.60 total for statutory
24 penalties. *Id.*

25 PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendants' potential
26 exposure could potentially reach \$1,106,900.00, assuming the initial \$100 penalty would apply for
27 each of the 11,069 pay periods in the PAGA Period. Yslas Decl. at ¶ 18. However, even assuming
28 success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a

1 variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary
2 and oppressive, or confiscatory. *Id.* As such, Plaintiffs' counsel discounted this figure to account
3 for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately
4 \$110,690.00 for PAGA penalties (\$1,106,900.00 x 10%). *Id.* The settlement allocates \$50,000.00
5 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 5.3% of the
6 Gross Settlement Amount and approximately 45% of the realistic maximum damages for PAGA
7 penalties (\$50,000.00 / \$110,690.00). *Id.*

8 Using these estimated figures, Plaintiffs' Counsel predicted that the realistic maximum
9 recovery for all claims, including penalties, would be approximately \$1,014,724.23. Yslas Decl. at
10 ¶ 19. This means that the gross settlement amount represents approximately 93.6% of the realistic
11 maximum recovery figure (\$950,000.00/\$1,014,724.23). *Id.* Considering the risk and uncertainty
12 of prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
13 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
14 avoid the risk of an unfavorable judgment. *Id.*

15 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
16 class settlement payments is currently estimated to be \$512,333.33 for approximately 668 Class
17 Members. Yslas Decl. at ¶ 20. As a result, each Settlement Class Member would be eligible to
18 receive an average net benefit of approximately \$766.97. *Id.* Based on the estimated Net Settlement
19 Amount available for individual class payments and there being approximately 43,012 workweeks
20 in the Class Period, the estimated weekly valuation for Individual Class Payments is \$11.91
21 (\$512,333.33/ 43,012 workweeks). *Id.*

22 C. The Requested Service Payments are Reasonable

23 Plaintiffs seek Class Representative Service Payments of up to \$10,000.00 each
24 (\$20,000.00 total) for accepting the responsibilities of representing the interests of the Class and
25 potential costs that were not borne by any other Class Member. Settlement Agreement at § 3.2.1.
26 A named plaintiff is eligible for payment that reasonably compensates the plaintiff for undertaking
27 and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee*
28 *Cases*, 186 Cal.App.4th 1380, 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726

1 (2004).

2 Throughout this case, Plaintiffs assisted counsel in providing information necessary to
3 prosecute the claims, meeting with counsel regarding the claims, maintaining regular contact with
4 counsel, making themselves available the day of mediation to answer questions, and reviewing the
5 Settlement to ensure it was fair to the Class. Gonzalez Decl. at ¶ 11. and Lopez Decl. at ¶ 11. No
6 action would likely have been taken by Class Members individually and no compensation would
7 have been recovered for them, but for Plaintiffs' services on behalf of the Class. By actively
8 pursuing this action, Plaintiffs furthered the California public policy goal of enforcing the State's
9 wage-and-hour laws. *See Sav-On*, 34 Cal.4th at 340. The requested Class Representative Service
10 Payments are reasonable and should be preliminarily approved. Plaintiffs have provided
11 declarations regarding their work performed to date and will provide additional information as
12 requested or required by the Court at final approval.

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

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

20 Plaintiffs seek appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
21 performed significant work and expended litigation costs in prosecuting this matter with no
22 guarantee of payment. Yslas Decl. at ¶ 21. Plaintiffs' Counsel seeks preliminary approval for up
23 to one third (1/3) of the Gross Settlement Amount in attorneys' fees, currently estimated to be
24 \$316,666.67, and up to \$40,000.00 in reimbursement of litigation costs. Given the work performed
25 in this matter, the extensive information exchange, and the substantial recovery obtained on behalf
26 of the Class, Plaintiffs' Counsel achieved a settlement through efficient and diligent work. *See*
27 *generally*, Yslas Decl. At final approval, Plaintiffs' Counsel will fully brief the merits of its request
28 for the award of attorneys' fees and litigation costs.

The Parties have agreed upon using Phoenix to administer this Settlement. Settlement Agreement at §§ 1.2, 7.1. Plaintiffs seek preliminary approval of \$11,000.00 for Phoenix Class Action to administer this Settlement pursuant to Phoenix’s will-not-exceed bid. *See* Yslas Decl. at ¶ 34, Exhibit 4. The services covered by this payment are extensive and necessary to carry out the Settlement administration.

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.

WILSHIRE LAW FIRM, PLC

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