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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

SHANE GREENE, ALEX FERNANDEZ,
DAVID STANLEY, EDDIE RUSTRIAN,
and JENNY LINARES, individually, and
on behalf of all others similarly situated,

Plaintiffs,

v.

DOLLAR TREE DISTRIBUTION, INC., a
Virginia corporation; and DOES 1 through
10, inclusive,

Defendants.

Case No. CIVSB2420954

*[Assigned for All Purposes to the Nicole
Quintana Winter, Dept. S29]*

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Preliminary Approval Hearing:

Date: September 30, 2026

Time: 9:00 a.m.

Dept.: S29

Action Filed: June 26, 2024

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 30, 2026, at 9:00 a.m., or as soon thereafter as the matter may be heard in Department S29 of the above-entitled Court, located at 247 West Third Street, San Bernardino, California 92415, Plaintiffs Shane Greene, Alex Fernandez, David Stanley, Eddie Rustrian, Jenny Linares, and Arianna Jacobo (collectively “Plaintiffs”) will and hereby do move this Court for an Order:

1. Granting preliminary approval of the proposed Class Action and PAGA Settlement Agreement (“Settlement”);
2. Conditionally certifying the proposed Class for settlement purposes only;
3. Appointing Plaintiffs as the Class Representatives;
4. Appointing Wilshire Law Firm, PLC as Class Counsel;
5. Appointing Phoenix Class Action Administration Solutions as the Settlement Administrator; and
6. Setting a final approval hearing date.

Pursuant to California Rules of Court, Rule 3.769(d) and (e) and California Labor Code section 2699(s)(2), 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 Plaintiffs’ Counsel will fairly and adequately represent the Class.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of John G. Yslas, the Declaration of William C. Sung, the Plaintiffs’ Declarations 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.

Respectfully submitted,

Dated: September 4, 2026

WILSHIRE LAW FIRM, PLC

By: /s/ Courtney M. Miller

Courtney M. Miller
Attorneys for Plaintiffs

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to California Rules of Court, Rule 3.769(d) and (e) and California Labor Code
4 section 2699(s)(2), Plaintiffs seek preliminary approval of a class action settlement of disputed
5 wage and hour claims, including representative claims brought under the Labor Code Private
6 Attorneys General Act of 2004 (“PAGA”), against Defendant Dollar Tree Distribution, Inc.
7 (“Defendant”). The proposed Class is defined as all individuals who were employed by Defendant
8 in California as non-exempt employees (“Class Members”) at any time from February 27, 2020,
9 through the date of the Preliminary Court Approval (“Class Period”). The main terms of the
10 Settlement are as follows:

- 11 1. A Maximum Settlement Amount of \$1,825,000.00, which will be distributed to
12 approximately 2,287 Class Members on a pro rata basis according to the total
13 workweeks worked by each Class Member during the Class Period;¹
14 2. Attorneys’ fees of up to 35% of the Maximum Settlement Amount (currently
15 \$638,750.00) and up to \$50,000.00 in reimbursement of litigation costs to Plaintiffs’
16 Counsel;
17 3. A general release payment of \$10,000.00 each to Plaintiffs Shane Greene, Alex
18 Fernandez, Eddie Rustrian, Jenny Linares, and Arianna Jacobo and a general release
19 payment of \$5,000.00 to Plaintiff David Stanley (\$55,000.00 total);
20 4. Costs of settlement administration of up to \$25,000.00; and
21 5. Allocation of \$50,000.00 to PAGA penalties, seventy-five percent (75%) of which
22 (\$37,500.00) will be paid to the Labor and Workforce Development Agency
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25 ¹ If the total number of workweeks is greater than 222,491 for the “Covered Time
26 Frame,” then Defendant has the option to either (1) increase the Maximum Settlement Amount
27 proportionally by the number of workweeks worked in excess of 222,491 workweeks or (2)
28 adjust the end date for the Covered Time Frame for all Settlement Class Members at the pay date
that encompasses 222,491 workweeks (i.e., a date earlier than preliminary approval). Settlement
Agreement at § 3.5.

1 (“LWDA”), and twenty-five percent (25%) of which (\$12,500.00) will be paid to
2 all individuals employed by Defendant in California as non-exempt employees
3 (“Aggrieved Employees”) at any time from December 15, 2022 through the date of
4 the Preliminary Court Approval of the Settlement (“PAGA Period”).

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

14 **II. PROCEDURAL HISTORY**

15 On February 23, 2024, Plaintiff Arianna Jacobo, represented by Justice For Workers, P.C.,
16 provided written notice to the LWDA and Defendant of the specific provisions of the Labor Code
17 alleged to have been violated. John G. Yslas in Support of Motion for Preliminary Approval of
18 Class Action and PAGA Settlement (“MPA”) (“Yslas Decl.”) at ¶ 3, Exhibit 1. On February 27,
19 2024, Plaintiff Arianna Jacobo filed a putative class action complaint against Defendant in the
20 Superior Court of California, County of San Joaquin, Case No. STK-CV-UOE-2024-0002389
21 (“Jacobo Action”). Yslas Decl. at ¶ 3.

22 On March 6, 2024, Plaintiff Shane Greene provided written notice to the LWDA and
23 Defendant of the specific provisions the Labor Code alleged to have been violated. Yslas Decl. at
24 ¶ 4, Exhibit 2.

25 On April 30, 2024, Plaintiff Arianna Jacobo filed an amended complaint in the Jacobo
26 Action which added a cause of action for civil penalties under PAGA. Yslas Decl. at ¶ 5.

27 On May 10, 2024, Plaintiffs Shane Greene and Jenny Linares provided amended written
28 notice to the LWDA and Defendant of the specific provisions the Labor Code alleged to have been

1 violated. Yslas Decl. at ¶ 6, Exhibit 3.

2 On June 26, 2024, Plaintiffs Shane Greene, Alex Fernandez, David Stanley, Eddie Rustrian,
3 and Jenny Linares, represented by Wilshire Law Firm, PC, filed this putative class action against
4 Defendant alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime
5 wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods;
6 (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage
7 statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested
8 employment records; and (9) unfair business practices (“Instant Action”). Yslas Decl. at ¶ 7.

9 On July 23, 2024, Plaintiff Shane Greene, Alex Fernandez, David Stanley, Eddie Rustrian,
10 and Jenny Linares provided amended written notice to the LWDA and Defendant of the specific
11 provisions the Labor Code alleged to have been violated. Yslas Decl. at ¶ 8, Exhibit 4. The LWDA
12 did not notify Plaintiffs Shane Greene, Alex Fernandez, David Stanley, Eddie Rustrian, and Jenny
13 Linares that it intended to investigate within 65 days of this written notice. Yslas Decl. at ¶ 8.
14 Therefore, on November 15, 2024, Plaintiffs Shane Greene, Alex Fernandez, David Stanley, Eddie
15 Rustrian, and Jenny Linares filed a separate action for civil penalties under PAGA in the Superior
16 Court of California, County of Alameda, Case No. 24CV099865 (“Greene PAGA Action”). *Id.*

17 The Parties subsequently participated in a private mediation with Katherine Edwards, Esq.
18 on January 27, 2026. Yslas Decl. at ¶ 9. The parties reached an agreement as to general settlement
19 terms and negotiated the terms of the Settlement over the next several months. *Id.* The Parties
20 finalized the Settlement in July 2026. *Id.* at ¶ 10, Exhibit 5 (“Settlement Agreement”). On
21 September 1, 2026, Plaintiffs submitted a copy of the Settlement Agreement to the LWDA. Yslas
22 Decl. at ¶ 11, Exhibit 6.

23 On August 27, 2026, the Parties submitted a stipulation and proposed order in the Instant
24 Action to consolidate the Jacobo Action, Instant Action, and Greene PAGA Action under the
25 Instant Action and to grant leave to amend to file a consolidated complaint which, in part, will add
26 Plaintiff Arianna Jacobo as a named plaintiff to the Instant Action. Yslas Decl. at ¶ 12.

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III. SUMMARY OF THE SETTLEMENT TERMS

A. Terms of the Proposed Settlement

The parties have agreed to settle the claims alleged in this case and the related PAGA Action for a Maximum Settlement Amount of \$1,825,000.00, with no reversion to Defendant. Settlement Agreement at § 1.20. Subject to Court approval, the following payments will be deducted from the Maximum Settlement Amount: (1) a general release payment of \$10,000.00 each to Plaintiffs Shane Greene, Alex Fernandez, Eddie Rustrian, Jenny Linares, and Arianna Jacobo and a general release payment of \$5,000.00 to Plaintiff David Stanley (\$55,000.00 total); (2) attorneys' fees of up to 35% of the Maximum Settlement Amount (currently \$638,750.00) and reimbursement of litigation costs of up to \$50,000.00 to Plaintiffs' Counsel; (3) costs of settlement administration of up to \$25,000.00 to Phoenix; (4) individual class payments to Class Members; and (5) PAGA penalties in the amount of \$50,000.00, which will be allocated 75% to the LWDA (\$37,500.00) and 25% to Aggrieved Employees (\$12,500.00). *Id.* at §§ 1.14, 1.39, 3.11.2, 3.17. After all requested deductions are made, the remaining Net Settlement Amount available for distribution to Settlement Class Members is currently estimated to be \$1,006,250.00.

Individual class payments will be calculated based on the number of workweeks worked by each Class Member during the Class Period. Settlement Agreement at § 3.12. For tax purposes, the individual class payments will be allocated 80% to wages and 20% to penalties. *Id.* at § 3.3. Defendant will separately pay any and all employer payroll taxes owed on the wage positions of the individual class payments separate from the Maximum Settlement Amount. *Id.* at § 1.8.

Individual PAGA payments to Aggrieved employees will be calculated based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. Settlement Agreement at § 3.11.3. For tax purposes, the individual PAGA payments will be allocated 100% to penalties. *Id.* at § 3.3.

Funds from any uncashed checks will be transmitted by the Settlement Administrator to the California State Controller in the name of the Class Member. *Id.* at § 3.13.

B. Proposed Settlement Administration

The parties' proposed Class Notice complies with the requirements of California Rules of

1 Court, Rule 3.766(d). *See* Exhibit A to Settlement Agreement. It provides information regarding
2 the nature of this lawsuit, a summary of the settlement terms, the formula used for calculating
3 individual class and PAGA payments and instructions to dispute the calculations, instructions on
4 how to opt-out of or object to the Settlement, the date, time, and location of the final approval
5 hearing, and the amounts sought for the service payments, attorneys' fees and litigation costs, and
6 settlement administration costs. *See generally, id.* The Class Notice also notifies Class Members
7 that they do not need to submit a claim in order to participate in the Settlement and receive a
8 payment. *See id.* The Class Notice will be distributed in English, consistent with Defendant's
9 representation that English is the language it used to communicate with its employees. The
10 Settlement Administrator will mail Class Members the Class Notice by first-class mail.

11 Upon receipt of the Class Information, the Settlement Administrator will perform a search
12 on the National Change of Address database to update the Settlement Class Members' addresses.
13 Settlement Agreement at § 3.6.3. No more than 14 days after receiving the Class Information from
14 Defendant as provided herein, the Settlement Administrator shall mail copies of the Notice Packet
15 to all Settlement Class Members by regular First Class U.S. Mail. *Id.*

16 If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the
17 Class Notice to the forwarding address provided. *Id.* at § 3.6.4. If no forwarding address is
18 provided, the Settlement Administrator shall make reasonable efforts to obtain an updated mailing
19 address within five (5) business days of the date of the return of the Notice Packet. *Id.* If an updated
20 mailing address is identified, the Settlement Administrator shall resent the Notice Packet to the
21 Class Member. *Id.* Settlement Class Members to whom Notice Packets are resent after having been
22 returned undeliverable to the Settlement Administrator shall have 14 days thereafter or until the
23 Response Deadline has expired, whichever is later, to mail the Request for Exclusion, or to serve
24 a Notice of Objection. *Id.*

25 **C. Proposed Releases**

26 Released Class Claims:

27 "Covered Class Members' Released Claims" means any and all federal and
28 California state law wage-and-hour claims, rights, demands, liabilities, and/or
 causes of action of every nature and description, whether known or unknown,
 including, without limitation, statutory, constitutional, contractual, and/or common

1 law claims for wages, reimbursements, damages, unpaid costs, statutory penalties,
2 liquidated damages, punitive damages, interest, attorneys' fees, litigation costs,
3 restitution, or equitable relief, arising from or related to any and all claims that
4 were asserted or could have been asserted based upon the facts alleged in the
5 Complaint. The claims released by the Covered Class Members shall include,
6 without limitation, known and unknown claims relating to any alleged failure to
7 pay for all hours worked, failure to pay at the regular rate of pay, failure to pay
8 overtime, failure to provide compliant meal and rest breaks, failure to reimburse
9 business expenses, failure to pay timely wages (during employment and at
10 termination), failure to maintain accurate records, failure to furnish accurate and
11 itemized wage statements, failure to provide reasonable comfort by maintaining
12 the temperature, failure to pay sick leave, failure to provide employees with notice
13 of quotas and/or quotas prevented employees from taking meal periods, rest
14 periods, and/or the use of bathroom facilities, unfair competition and business
15 practices, and any statutory penalty claims that were or could have been asserted
16 in the Complaint under any federal, state, or local statutes, codes, or ordinances
17 (including, any applicable Industrial Welfare Commission Wage Order; California
18 Labor Code sections 117, 200-204, 206, 210, 216, 218.5, 218.6, 226, 226.2, 226.3,
19 226.7, 226.8, 227.3, 256, 432, 510, 512, 558, 558.1, 1174, 1174.5, 1175, 1182.12,
20 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2100 et seq., 2802, 2810.5, California
21 Business and Professions Code sections 17200 et seq., and any federal
22 counterparts).

23 Settlement Agreement at § 1.6.

24 Released PAGA Claims:

25 “PAGA Associates’ Released Claims” means any and all individual and
26 representative claims that could have been assessed upon and collected from the
27 Released Parties under the California Private Attorneys General Act, California
28 Labor Code sections 2698 et seq. (“PAGA”), including any and all claims for unpaid
wages of whatever kind or nature recoverable under PAGA, whether known or
unknown, arising during the PAGA Period based on the facts alleged in the
Complaint including but not limited to failure to pay for all hours worked, failure to
pay at the regular rate of pay, failure to pay overtime, failure to provide compliant
meal and rest breaks, failure to reimburse business expenses, failure to pay timely
wages (during employment and at termination), failure to maintain accurate records,
failure to furnish accurate and itemized wage statements, failure to provide
reasonable comfort by maintaining the temperature, failure to pay sick leave, failure
to provide employees with notice of quotas and/or quotas prevented employees from
taking meal periods, rest periods, and/or the use of bathroom facilities, which were
or could have been asserted in the Complaint under any federal, state, or local
statutes, codes, or ordinances including, any applicable Industrial Welfare
Commission Wage Order, California Labor Code sections 117, 200-204, 206, 210,
216, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 256, 432, 510, 512, 558,
558.1, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5,
1198, 2100 et seq., 2802, 2810.5, Cal. Code Regs., tit. 8, § 3203, and any federal
counterparts. Therefore, as of the date the Settlement becomes Effective, all PAGA
Associates, and the State of California release the Released Parties from the
Released PAGA Claims for the PAGA Period.

29 Settlement Agreement at § 1.25.

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Each of the releases are limited to claims arising from the facts asserted in the Complaint. Settlement Agreement at §§ 1.6, 1.25.

Only Plaintiffs will agree to a general release, in consideration of the general release payments. Settlement Agreement at § 3.15.

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). Defendant stipulates to class treatment for purposes of settlement only.

1. The Proposed Settlement 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 individuals who were employed by Defendant in California as non-exempt employees at any time during the Class Period (February 27, 2020, through the date of the Preliminary Court Approval). See Settlement Agreement at § 1.3, 1.41. The Class is also readily ascertainable from Defendant’s business records, because all Class Members are or were

employees of Defendant. *Id.* Defendant’s records show there are approximately 2,287 Class Members, making joinder of all Class Members impracticable. Yslas Decl. at ¶ 14.

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.*

Plaintiffs have alleged that Defendant maintained common employment policies and/or practices that unlawfully deprived Class Members of wages, meal period, rest periods, reimbursements for business expenses, accurate wage statements, and timely payment of wages upon separation of employment. Yslas Decl. at ¶ 15. While Defendants deny such claims, these allegations present common factual and legal questions of, *inter alia*, whether Defendant 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 Defendant’s 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.

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Plaintiffs have alleged that they 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, and reimbursement policies. *See* Yslas Decl. at ¶ 15. Through informal discovery, Plaintiffs confirmed that these challenged policies and practices applied to Plaintiffs and other Class Members alike. *See id.* at ¶ 13. Therefore, Plaintiffs' claims and Class Members' claims arise from the same challenged employment policies and practices and are based on the same legal theories.

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 Plaintiffs and proposed Class Counsel present no such conflict.

Plaintiffs’ interests are coextensive with Class Members’ interests. Declarations of Shane Greene, Alex Fernandez, David Stanley, Eddie Rustrian, Jenny Linares, and Arianna Jacobo in Support of Plaintiffs’ MPA (“Greene Decl.,” “Fernandez Decl.,” “Stanley Decl.,” “Rustrian Decl.,” and “Linares Decl.,” respectively) at ¶ 6; Declaration of Arianna Jacobo (“Jacobó Decl.”) at ¶ 5. Plaintiffs have demonstrated an ability to advocate for the interests of Class Members by initiating

1 this lawsuit, gathering documents and information, being available on the day of mediation to
2 answer questions, meeting with their attorneys to understand the claims and theories of liability at
3 issue, assisting their attorneys in preparation for mediation, and reviewing the proposed Settlement.
4 Greene Decl. at ¶ 11; Fernandez Decl. at ¶ 11; Stanley Decl. at ¶ 11; Rustrian Decl. at ¶ 11; Linares
5 Decl. at ¶ 11; Jacobo Decl. at ¶ 4.

6 Likewise, Wilshire Law Firm, PLC and Justice for Workers, P.C. have expended
7 considerable time and effort on this case and will continue to do so through final approval. *See*
8 *generally*, Yslas Decl. Therefore, Plaintiffs should be appointed as Class Representatives, and
9 Plaintiffs' counsel should be appointed Class Counsel.

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

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

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

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

proposed settlement.” *Wershba*, 91 Cal.App.4th at 244-245 (internal quotations and citations omitted).

1. The Settlement is Entitled to a Presumption of Fairness

A settlement is entitled to “a presumption of fairness . . . where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). The Settlement here satisfies the first three factors. Plaintiff will analyze the fourth factor at final approval after Class Members have been notified of the Settlement and provided with an opportunity to object.

a. The Settlement is the Result of Arm’s Length Negotiation

Courts have recognized that the involvement of a respected mediator provides a high degree of assurance that the settlement is the result of arm’s length bargaining. *See Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 52-53 (2008). The Settlement in this matter was the product of a full-day mediation session with a respected mediator and continuing discussions through the mediator in the following days. Yslas Decl. at ¶ 9. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

b. Sufficient Investigation and Discovery Have Been Conducted

Prior to attending mediation, Plaintiffs’ Counsel thoroughly investigated the claims, applicable law, and potential defenses. Yslas Decl. at ¶ 13. Plaintiffs’ Counsel assessed the value to the class claims using the data and documents Defendant produced in informal discovery, including the number of Class Members, the number of workweeks in the Class Period, the number of pay periods in the PAGA Period, the number of Aggrieved Employees, documents concerning Plaintiffs, Defendant’s written wage-and-hour policies, job descriptions, demographic data regarding class members, and a sampling of time and payroll records. *Id.*

c. Plaintiffs’ Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Wilshire Law Firm, PLC and Justice for Workers, P.C. Yslas Decl. at ¶¶ 1, 26; Declaration of William C. Sung in Support of Plaintiffs’ MPA (“Sung Decl.”) at

¶ 1. Plaintiffs' Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* ¶¶ 26-39; Sung Decl. at ¶¶ 3-6. Plaintiffs' 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 Plaintiffs' Claims and the Risks and Expense of Further Litigation

A settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1991). Although the exposure Plaintiffs' Counsel calculated is substantial, the various risks at succeeding at class certification and through trial affected the valuation of the claims for settlement purposes. Yslas Decl. at ¶ 16.

Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage claims were based on the allegation that Defendant required Class Members to perform work duties while off the clock, without compensation. Yslas Decl. at ¶ 17. For example, Plaintiffs alleged that Defendant required them and other Class Members to wait in long lines to clock in at the start of their shift or clock back in from their meal periods due Defendant having a limited number of time clocks and groups of more than 70 employees needing to clock in at the same time. *Id.* Defendant denies that Plaintiffs and Class Members were ever required to wait in long lines to clock in, were ever permitted or required to work off-the-clock, and Defendant contends that the data and information it provided in advance of and at mediation supporting its position. *Id.* For purposes of calculating Defendant's liability based on a best-case scenario for Plaintiffs and the Class, Plaintiffs' Counsel assumed that all unpaid worktime should have been paid at the overtime rate of pay and conservatively estimated that Defendant is liable for one (1) hour of unpaid worktime per workweek. *Id.* This results in potential exposure for this claim of approximately \$5,613,214.05 (177,774 workweeks x \$21.05 average hourly rate of pay x 1 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class Member testimony and would not be evidenced in Defendant's time and payroll records, the risk of succeeding at class certification and trial was substantial. Accordingly, Plaintiffs' Counsel applied a risk discount based on a 30% chance of succeeding at class certification and a 30% chance

1 of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
2 \$505,189.27 ($\$5,613,214.05 \times 30\% \times 30\%$). *Id.*

3 Meal Periods: Plaintiffs' meal period claim was based on the allegation that Defendant
4 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
5 in lieu thereof. Yslas Decl. at ¶ 18. For example, Plaintiff alleged that Defendant failed to provide
6 them and other Class Members with uninterrupted duty-free meal periods. *Id.* Additionally,
7 Plaintiffs' Counsel's expert consultant determined there was a 26% meal period violation rate from
8 the sampling of Defendant's time and payroll records for shifts over 5 hours where meal periods
9 were short, late, or missed. *Id.* For shifts over 6 hours where meal periods are not waivable,
10 Plaintiffs' Counsel's expert consultant determined there was only a 6.1% meal period violation
11 rate. *Id.* Defendant denies that it failed to provide statutory-required meal periods. *Id.* Defendant
12 contends that the meal period violation rate reflects and includes (i) second-meal periods (which
13 employees validly waived), and/or (ii) individual employees' failure to punch meal periods they
14 did take, as it contends that work shuts down on a shift within the distribution center during a meal
15 period. *Id.* Therefore, potential liability for the meal period claim is approximately \$904,475.83
16 ($704,393 \text{ shifts over 6 hours} \times \$21.05 \text{ average hourly rate} \times 6.1\% \text{ violation rate}$). *Id.* After taking
17 into account the difficulty of certifying and proving meal period claims, as well as Defendant's
18 contention that the claim lacks merit, Plaintiffs' Counsel discounted this figure based on a 50%
19 chance of succeeding at class certification and a 40% chance of succeeding at trial, yielding a
20 realistic damage estimate of approximately \$180,895.17 ($\$904,475.83 \times 50\% \times 40\%$). *Id.*

21 Rest Periods: Plaintiffs' rest period claim was based on the allegation that Defendant failed
22 to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu
23 thereof. Yslas Decl. at ¶ 19. For example, Plaintiff alleged that Defendant failed to provide them
24 and other Class Members with uninterrupted duty-free rest periods. *Id.* Again, Defendant denies
25 Plaintiffs' allegations, arguing that work stops across shifts during rest periods that occurred at
26 regularly scheduled compliant intervals. *Id.* Based on Plaintiffs' allegations, Plaintiffs' Counsel
27 applied a 50% violation rate to all qualifying shifts during the Class Period. Therefore, Defendant's
28 potential liability for the rest period claim is approximately \$7,746,589.45 ($736,018 \text{ shifts of 3.5}$

1 hours or longer x \$21.05 average hourly rate x 50% violation rate). However, Plaintiffs' Counsel
2 discounted this figure to account for the difficulty of certifying and proving rest period claims,
3 particularly because rest periods do not have to be recorded, and to account for the possibility of
4 Class Members voluntarily choosing to forego a rest period. *Id.* Because this claim would have
5 relied exclusively on Class Member testimony, Plaintiffs' Counsel discounted this claim based on
6 a 30% chance of succeeding at class certification and a 20% chance of succeeding at trial, yielding
7 a realistic damage estimate of approximately \$464,795.37 ($\$7,746,589.45 \times 30\% \times 20\%$). *Id.*

8 Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that
9 Defendant failed to indemnify Class Members for expenses incurred as a direct result of performing
10 their job duties for Defendant, such as mandatory use of personal cell phones for work purposes.
11 Yslas Decl. at ¶ 20. For purposes of calculating Defendant's liability based on a best-case scenario
12 for Plaintiff and the Class, Plaintiffs' Counsel estimated that Defendant was liable to each Class
13 Member for \$7.50 per workweek in unreimbursed expenses, for a total amount of approximately
14 \$1,333,305.00 ($\$7.50/\text{workweek} \times 177,774 \text{ workweeks}$). *Id.* However, Defendant argued that it did
15 not require the use of personal cell phones and that it had a policy for reimbursing its employees
16 for work-related expenses. *Id.* Accordingly, Plaintiffs' Counsel discounted this claim based on a
17 40% chance of succeeding at class certification and a 30% chance of succeeding at trial, yielding
18 a realistic damage estimate of approximately \$159,996.60 ($\$1,333,305.00 \times 40\% \times 30\%$). *Id.*

19 In sum, Plaintiffs' Counsel estimated that Plaintiffs' maximum recovery for the off-the-
20 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
21 approximately \$14,264,279.33. Yslas Decl. at ¶ 21. However, after factoring in the risk and
22 uncertainty of prevailing at certification and trial, Plaintiffs' Counsel estimates that Plaintiffs'
23 realistic estimated recovery for these non-penalty wage claims is approximately \$1,150,879.81. *Id.*

24 Derivative Penalties: Plaintiff alleged that as a result of Defendant's failure to pay all wages
25 owed, Defendant owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 22.
26 With respect to Plaintiffs' derivative claims for statutory penalties, Plaintiffs' Counsel estimated
27 that Defendant's maximum potential liability is approximately \$767,512.59. *Id.* Defendant's
28 maximum potential liability for waiting time penalties is approximately \$8,908,254.75 ($1,585$

employees x \$21.05 average hourly rate of pay x 8 hours/day x 30 days] + [1,585 employees x \$21.05 average hourly rate of pay x 0.60 hours of overtime/day x 1.5 overtime rate x 30 days]) based on approximately 1,585 formerly employed Class Members during the 3-year statute of limitations period and an average shift length of 8.6 hours. *Id.* Defendant's maximum potential liability for inaccurate wage statements is approximately \$4,183,900.00 ([1,680 employees x 1 initial violation/employee x \$50 for an initial violation] + [(42,679 pay periods - 1,680 initial violations) x \$100 for each subsequent violation]) based on approximately 1,680 Class Members who worked during the 1-year statute of limitations period and approximately 42,679 pay periods in that statutory timeframe. *Id.* In light of the foregoing, Plaintiffs' Counsel believes that it would be unrealistic to expect the Court to award the full \$13,092,154.75 in statutory penalties given Defendant's defenses, the contested nature of Plaintiffs' 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 \$1,150,879.81, such a disproportionate award would also raise due process concerns. *Id.* As such, Plaintiffs' Counsel discounted these figures to account for the risk and uncertainty of obtaining class certification and prevailing at trial, resulting in a realistic evaluation of approximately \$534,495.29 for waiting time penalty claims (\$8,908,254.75 x 30% x 20%), and approximately \$251,034.00 for wage statement penalty claims (\$4,183,900.00 x 30% x 20%), or approximately \$767,512.59 total for statutory penalties. *Id.*

PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendant's potential exposure could reach \$4,705,600.00, assuming the initial \$100 penalty would apply for each of the 47,056 pay periods in the PAGA Period. Yslas Decl. at ¶ 23. 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, Plaintiffs' Counsel discounted this figure to account for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately \$470,560.00 for PAGA penalties (\$4,705,600.00 x 10%). *Id.* The settlement allocates \$50,000.00 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 2.7% of the

1 Gross Settlement Amount and approximately 11% of the realistic maximum damages for PAGA
2 penalties (\$50,000.00 / \$470,560.00). *Id.* Pursuant to the Settlement Agreement, the amount of
3 PAGA Penalties allocated to Aggrieved Employees is \$12,500.00. With an estimated total of 1,545
4 Aggrieved Employees, each Aggrieved Employee would be eligible to receive an average net
5 benefit of approximately \$8.09. Based on the amount of PAGA Penalties available for individual
6 PAGA payments and there being approximately 47,056 pay periods in the PAGA Period, the
7 estimated pay period valuation for individual PAGA payments is \$0.27 (\$12,500.00 for PAGA
8 Penalties to Aggrieved Employees / 47,056 pay periods). Based on these current estimates, the
9 lowest estimated individual PAGA payment could be \$0.27 (\$0.27 x 1 pay period) and the highest
10 estimated individual PAGA payment could be \$26.73 (\$0.27 x approximately 99 pay periods in
11 the PAGA Period).

12 Using these estimated figures, Plaintiffs' Counsel predicted that the realistic maximum
13 recovery for all claims, including penalties, would be approximately \$2,566,965.70. Yslas Decl. at
14 ¶ 24. This means that the gross settlement amount represents approximately 71% of the realistic
15 maximum recovery (\$1,825,000.00 / \$2,566,965.70). *Id.* Considering Defendant's defenses and
16 the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for
17 the Class. *Id.* Indeed, because of the proposed Settlement, Class Members will receive timely,
18 guaranteed relief and will avoid the risk of an unfavorable judgment. *Id.*

19 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
20 class settlement payments is currently estimated to be \$1,006,250.00 for approximately 2,287 Class
21 Members. Yslas Decl. at ¶ 25. As a result, each Settlement Class Member would be eligible to
22 receive an average net benefit of approximately \$439.99. *Id.* Based on the estimated Net Settlement
23 Amount available for individual class payments and there being approximately 177,774
24 workweeks in the Class Period, the estimated weekly valuation for individual class payments is
25 \$5.66 (\$1,006,250.00/ 177,774 workweeks). *Id.* Based on these current estimates, the lowest
26 estimated individual class payment could be \$5.66 (\$5.66 x 1 week) and the highest estimated
27 individual class payment could be \$1,947.04 (\$5.66 x approximately 344 weeks in the Class
28 Period). *Id.*

1 **C. The Requested General Release Payments are Reasonable**

2 Plaintiffs seek a general release payment of \$10,000.00 each to Plaintiffs Shane Greene,
3 Alex Fernandez, Eddie Rustrian, Jenny Linares, and Arianna Jacobo and a general release payment
4 of \$5,000.00 to Plaintiff David Stanley for accepting the responsibilities of representing the
5 interests of the Class and potential costs that were not borne by any other Class Member. Settlement
6 Agreement at § 1.14. A named plaintiff is eligible for payment that reasonably compensates him
7 or her for undertaking and fulfilling a fiduciary duty to represent absent class members. *See*
8 *Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380, 1393 (2010); *Bell v. Farmers Ins. Exch.*,
9 115 Cal.App.4th 715, 726 (2004).

10 Throughout this case, Plaintiffs assisted counsel in gathering evidence necessary to
11 prosecute the claims, maintained regular contact with counsel, and reviewed the Settlement to
12 ensure it was fair to the Class. Greene Decl. at ¶ 11; Fernandez Decl. at ¶ 11; Stanley Decl. at ¶
13 11; Rustrian Decl. at ¶ 11; Linares Decl. at ¶ 11; Jacobo Decl. at ¶ 4. No action would likely have
14 been taken by Class Members individually and no compensation would have been recovered for
15 them, but for Plaintiffs' services on behalf of the Class. By actively pursuing this action, Plaintiffs
16 furthered the California public policy goal of enforcing the State's wage and hour laws. *See Sav-*
17 *On*, 34 Cal.4th at 340. The requested class representative service payments are reasonable and
18 should be preliminarily approved. Plaintiffs have provided declarations regarding their work
19 performed to date and will provide additional information as requested or required by the Court at
20 final approval.

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

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

28 ///

1 Plaintiffs seek appointment of Wilshire Law Firm, P.C. and Workers for Justice as Class
2 Counsel. The attorneys performed significant work and expended litigation costs in prosecuting
3 this matter with no guarantee of payment. Yslas Decl. at ¶ 26. Plaintiffs' Counsel seeks preliminary
4 approval for \$638,750.00 in attorneys' fees, which is up to 35% of the Maximum Settlement
5 Amount, and up to \$50,000.00 in reimbursement of litigation costs. Given the work performed in
6 this matter, the extensive information exchange, and the substantial recovery obtained on behalf of
7 the Class, Plaintiffs' Counsel achieved a settlement through efficient and diligent work. *See*
8 *generally*, Yslas Decl. At final approval, Plaintiffs' Counsel will fully brief the merits of its request
9 for the award of attorneys' fees and litigation costs.

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

11 The Parties have agreed upon using Phoenix Class Action Administration Solutions
12 ("Phoenix") to administer this Settlement. Settlement Agreement at § 1.40. Plaintiff seeks
13 preliminary approval of \$25,000.00 for Phoenix to administer this Settlement pursuant to
14 Phoenix's not-to-exceed bid. *See* Yslas Decl. at ¶ 41, Exhibit 7. The services covered by this
15 payment are extensive and necessary to carry out the Settlement administration.

16 **V. CONCLUSION**

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

22
23 Respectfully submitted,

24 Dated: September 4, 2026

WILSHIRE LAW FIRM, PLC

25
26 By: /s/ Courtney M. Miller

Courtney M. Miller

Attorneys for Plaintiffs