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

RAYMON GAVALDON, individually, and
on behalf of the State of California and other
aggrieved persons,

Plaintiff,

v.

VICEROY IMPROVEMENT LLC, an
Oregon limited liability company;
DABELLA EXTERIORS, LLC, an Oregon
limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 24CV019256
Consolidated with Case No. 25CV004523

*[Assigned for All Purposes to the Honorable Jill
H. Talley, Dept. 8A]*

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

Preliminary Approval Hearing:

Date: February 5, 2027

Time: 9:00 a.m.

Dept.: 8A

Reservation Number: A-19256-002

Action Filed: September 24, 2024

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 5, 2027, at 9:00 a.m., or as soon thereafter as the matter may be heard in Department 8A of the Superior Court of California, County of Sacramento, located at the Tani G. Cantil-Sakauye Sacramento County Courthouse at 500 G Street, Sacramento, CA 95814, Plaintiff Raymon Gavaldon (“Plaintiff”) will and hereby does move this Court for an Order:

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

Pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq.*, this Motion is made on the grounds that the proposed Settlement satisfies all criteria for preliminary approval and falls well within the range of reasonableness. The Settlement was reached through informed, arm’s length bargaining between experienced attorneys with the assistance of an experienced neutral, and Plaintiff and Plaintiff’s Counsel will fairly and adequately represent the Class.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities (“MPA”), the Declaration of Thiago M. Coelho, the Declaration of Raymon Gavaldon, 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.

Pursuant to Local Rule 1.06 (A), the Court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative ruling may be downloaded off the Court’s website. If the party does not have online access, they may call the dedicated phone number for the department as referenced in the local telephone directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and receive the tentative ruling. If you do not call the Court and the opposing party by 4:00 p.m. the

1 court day before the hearing, no hearing will be held.

2 Class Counsel has reviewed the Checklist for Approval of Class Action and/or Private
3 Attorneys General Act ("PAGA") Settlements found in Local Rule 2.99.05 and the briefing
4 complies with the Checklist.

5 Respectfully submitted,

6 Dated: September 11, 2026

WILSHIRE LAW FIRM, PLC

7
8 By:  _____

Thiago M. Coelho

Lauren M. Lenzion

Jennifer M. Leinbach

Giancarlo A. Recinos

11 Attorneys for Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq.*,
4 Plaintiff seeks preliminary approval of a class action settlement of wage and hour claims, including
5 representative claims brought under the Labor Code Private Attorneys General Act of 2004
6 (“PAGA”), against Defendants Viceroy Improvement LLC and Dabella Exteriors, LLC
7 (collectively, the “Defendants”). The proposed Class is defined as all persons who performed work
8 for Defendants, or any of them, in California as an hourly-paid or non-exempt employee (“Class
9 Members”) at any time during the period from September 24, 2020, through May 15, 2026 (“Class
10 Period”), including current and former employees. The main terms of the Settlement are as follows:

- 11 1. A Gross Settlement Amount of \$780,000.00, from which the Net Settlement
12 Amount will be distributed to approximately 1,024 Class Members on a pro rata
13 basis according to the total workweeks worked by each Class Member during the
14 Class Period;
- 15 2. Attorneys’ fees of up to thirty-five percent (35%) of the Gross Settlement Amount
16 (currently \$273,000.00) and up to \$25,000.00 in reimbursement of litigation costs
17 to Plaintiff’s Counsel;
- 18 3. An Enhancement Award of up to \$10,000.00 to Plaintiff;
- 19 4. Administration Costs of up to \$12,995.00; and
- 20 5. Allocation of \$39,000.00 to PAGA penalties, sixty-five percent (65%) of which
21 (\$25,350.00) will be paid to the Labor and Workforce Development Agency
22 (“LWDA”), and thirty-five percent (35%) of which (\$13,650.00) will be paid to all
23 persons who performed work for Defendants, or any of them, in California as an
24 hourly-paid or non-exempt employee (“Aggrieved Employees”) at any time during
25 the period from September 24, 2023, to May 15, 2026 (“PAGA Period”), including
26 current and former employees.

27 The Settlement meets all criteria for preliminary approval and falls within the range of
28 reasonableness given the risks and expenses of further litigation. The Settlement was reached

1 through informed, arm's length bargaining between experienced attorneys with the assistance of
2 an experienced neutral. As such, Plaintiff requests that the Court grant preliminary approval of the
3 Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the
4 Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Phoenix Settlement
5 Administrators ("Phoenix") as the Administrator, authorize the Administrator to administer notice
6 of the Settlement to the Class, and set a final approval hearing date.

7 **II. PROCEDURAL HISTORY**

8 On September 24, 2024, Plaintiff filed this putative class action against Defendants Viceroy
9 Improvement LLC and Dabella Exteriors, LLC (collectively, the "Defendants") alleging: (1) failure
10 to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide
11 meal periods; (4) failure to timely pay final wages at termination; (5) failure to provide accurate
12 itemized wage statements; (6) failure to indemnify employees for expenditures; (7) failure to
13 provide reporting time pay; and (8) unfair business practices ("Class Action"). Declaration of
14 Thiago M. Coelho in Support of Plaintiff's Motion for Preliminary Approval of Class Action and
15 PAGA Settlement ("Coelho Decl.") at ¶ 3.

16 On September 24, 2024, Plaintiff provided written notice to the LWDA and Defendants of
17 the specific provisions of the Labor Code alleged to have been violated, including the facts and
18 theories in support. Coelho Decl. at ¶ 4, Exhibit 1. The LWDA did not notify Plaintiff that it
19 intended to investigate within 65 days of this written notice. *Id.* Therefore, on February 24, 2025,
20 Plaintiff filed a separate action in the Superior Court of California, County of Sacramento, for civil
21 penalties under PAGA, Case No. 25CV004523 (the "PAGA Action"). *Id.* On May 2, 2025, the
22 Court deemed the Class Action and PAGA Action consolidated with the Class Action designated
23 as the lead case. *Id.* at ¶ 5.

24 On March 13, 2026, the Parties participated in a private mediation with Daniel J. Turner,
25 Esq. *Id.* at ¶ 6. The mediator made a proposal, which was accepted by the Parties. *Id.* The Parties
26 negotiated the terms of the Settlement over the next several months, which was finalized on May
27 14, 2026. *Id.* at ¶ 7, Exhibit 2. The Parties subsequently executed Addendum No. 1 in June 2026
28 to specify the PAGA allocation. *Id.* On September 9, 2026, Plaintiff submitted a copy of the

Settlement Agreement to the LWDA. *Id.* at ¶ 8, Exhibit 3.

III. SUMMARY OF THE SETTLEMENT TERMS

A. Terms of the Proposed Settlement

The Parties have agreed to settle the claims alleged in this case for a Gross Settlement Amount of \$780,000.00. Settlement Agreement at § 3.1. Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) an Enhancement Award of up to \$10,000.00 to Plaintiff; (2) attorneys' fees of up to thirty-five percent (35%) of the Gross Settlement Amount (currently \$273,000.00) and reimbursement of litigation costs of up to \$25,000.00 to Plaintiff's Counsel; (3) costs of settlement administration of up to \$12,995.00 to Phoenix; and (4) PAGA Penalties in the amount of \$39,000.00 which will be allocated 65% to the LWDA (\$25,350.00) and 35% to Aggrieved Employees (\$13,650.00). *Id.* at § 3.2 *et seq.*, as amended by Addendum No. 1, §§ 1-3. After all requested deductions are made, the remaining Net Settlement Amount is currently estimated to be \$420,005.00

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

Individual PAGA Payments to Aggrieved Employees will be calculated based on the number of PAGA Pay Periods worked by each Aggrieved Employee during the PAGA Period. *Id.* at § 3.2.5.1. For tax purposes, the individual PAGA payments will be allocated 100% to penalties. *Id.* at §§ 1.37, 3.2.5.2.

Any deductions not approved by the Court will be retained by the Settlement Administrator in the Net Settlement Amount. *Id.* at §§ 1.29, 3.2.1, 3.2.2, 3.2.3, 3.2.5.2. Funds from any uncashed checks will be transmitted by the Settlement Administrator to the California Controller's Unclaimed Property Fund in the name of the Class Member. *Id.* at § 4.4.3. None of the Gross Settlement Amount will revert to Defendants. *Id.* at § 3.1.

///

1 **B. Proposed Settlement Administration**

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

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

19 **C. Proposed Release**

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

23 Released Class Claims:

24 All Participating Class Members will waive and release all claims asserted in the
25 complaint filed in the Class Action or that could have been based on the factual
26 allegations asserted in the complaint filed in the Class Action during the Class
27 Period, including claims under the Labor Code, California Wage Orders, and all
28 equivalent claims under federal law, including the Fair Labor Standards Act
(collectively the "Released Class Claims"). For avoidance of doubt, Participating
Class Members are only releasing those claims which were asserted in the Class
Action or which reasonably could have been asserted based on the factual

allegations stated in the Class Action.

Settlement Agreement at § 5.2.

Released PAGA Claims:

The claims released by Aggrieved Employees, including Non-Participating Class Members who are Aggrieved Employees, are all claims for civil penalties under PAGA arising during the PAGA Period that were alleged in Plaintiff's PAGA Notice to the LWDA and the complaint filed in the PAGA Action, or that could have been based on the facts asserted in the PAGA Notice and the complaint filed in the PAGA Action against Released Parties (collectively the "Released PAGA Claims").

Settlement Agreement at § 5.3.

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

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

A. Provisional Certification of the Class is Appropriate

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

1. The Proposed Class is Numerous and Ascertainable

"Ascertainability" is determined by examining the class definition and the size of the class and may also involve examining the means available to identify class members. *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-981, 985-986 (2019). As the settlement eliminates the need for trial, "the case management issues inherent in the ascertainable class determination need not be confronted." *Global Minerals*, 113 Cal.App.4th at 859. Further, under California law, there is no

1 minimum number of class members for maintenance of a class action. *Hendershot v. Ready to Roll*
2 *Transp., Inc.*, 228 Cal.App.4th 1213, 1222 (2014). Class sizes as small as 10 have been permitted.
3 *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981), disapproved on other grounds by *Noel*,
4 7 Cal.5th at 986.

5 The Class here consists of all persons who performed work for Defendants, or any of them,
6 in California as an hourly-paid or non-exempt employee at any time during the Class Period,
7 including current and former employees. *See* Settlement Agreement at §§ 1.5, 1.13. The Class is
8 also readily ascertainable from Defendants’ business records, because all Class Members are or
9 were employees of Defendants. *Id.* Defendants’ records show there are approximately 1,024 Class
10 Members, making joinder of all Class Members impracticable. Coelho Decl. at ¶ 10.

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

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

15 **a. Common Questions Predominate**

16 In determining whether common issues “predominate,” courts consider both plaintiff’s
17 legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1,
18 28-29 (2014). The “predominant common questions” factor does not require that all class members
19 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
20 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
21 permit class-wide assessment, and whether individual variations in proof on those issues are
22 manageable. *Id.*

23 Plaintiff has alleged that Defendants maintained common employment policies and/or
24 practices that unlawfully deprived Class Members of wages, meal periods, rest periods,
25 reimbursements for business expenses, accurate wage statements, and timely payment of wages
26 upon separation of employment. Coelho Decl. at ¶ 11. These allegations present common factual
27 and legal questions of, *inter alia*, whether Defendants applied the same scheduling, timekeeping,
28 pay, meal period, rest period, and reimbursement policies to all Class Members, whether these

1 policies and practices resulted in Labor Code violations, whether Defendants’ conduct was
2 intentional, and whether Class Members are entitled to damages and/or penalties. *Id.* These
3 common questions could be resolved using Class Members’ time records, payroll records,
4 testimony from Defendants’ designated representative(s), and Class Members’ testimony. *Id.*
5 Therefore, the Court can and should exercise its discretion to grant conditional class certification
6 for settlement purposes.

7 *b. Plaintiff is Typical of the Class*

8 Typicality does not require that the representative plaintiff’s claims and those of the class
9 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
10 238-239 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4
11 Cal.5th 260 (2018). Typicality does not require that a plaintiff’s claims be identical to those of
12 other class members, only that their claims and the defenses applicable to them are sufficiently
13 similar to those of other class members that a named plaintiff is able to adequately represent the
14 class and focus on common issues. *Medrazo v. Honda of North Hollywood*, 166 Cal.App.4th 89,
15 99 (2008).

16 Plaintiff has alleged that he and Class Members were employed by the same Defendants
17 and injured by Defendants’ common wage and hour policies and practices, including Defendants’
18 scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Coelho
19 Decl. at ¶ 11. Through informal discovery, Plaintiff confirmed that these challenged policies and
20 practices applied to Plaintiff and Class Members alike. *See id.* at ¶ 9. Therefore, Plaintiff’s claims
21 and Class Members’ claims arise from the same challenged employment policies and practices and
22 are based on the same legal theories.

23 *c. Plaintiff and Plaintiff’s Counsel Will Adequately Represent the Class*

24 Certification requires adequacy of both the proposed class representative and of the
25 proposed class counsel. Cal. Code Civ. Proc. § 382. “Only a conflict that goes to the very subject
26 matter of the litigation will defeat a party’s claim of representative status.” *Richmond v. Dart*
27 *Industries*, 29 Cal.3d 462, 470 (1981). Only conflicts that are “irreconcilable” can defeat adequacy.
28 *Nat’l Solar Equip. Owners’ Ass’n v. Grumman Corp.*, 235 Cal.App.3d 1273, 1286 (1991). The

1 proposed representative Plaintiff and proposed Class Counsel present no such conflict.

2 Plaintiff's interests are coextensive with Class Members' interests. Declaration of Raymon
3 Gavaldon in Support of Plaintiff's MPA ("Gavaldon Decl.") at ¶ 6. Plaintiff has demonstrated an
4 ability to advocate for the interests of Class Members by initiating this lawsuit, providing
5 information to his attorneys, meeting with his attorneys regarding the claims, making himself
6 available the day of mediation to answer questions, and reviewing the proposed Settlement. *Id.* at
7 ¶ 11.

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

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

12 Class treatment must be "superior to alternate means for a fair and efficient adjudication of
13 the litigation." *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 332 (2004). This is so
14 because "[p]ublic policy has long favored the 'full and prompt payment of wages due an
15 employee.'" *Pressler v. Donald L. Bren Co.*, 32 Cal.3d 831, 837 (1982). Here, a class action is
16 superior to a multitude of individual lawsuits. Given the size and amount of each Class Member's
17 claim, Class Members have little incentive to litigate their claims on an individual basis because
18 the out-of-pocket expenses and personal commitment necessary to litigate each claim likely
19 outweigh any potential recovery. Coelho Decl. at ¶ 10. Therefore, a class action is the superior
20 method for seeking 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, 1802 (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. Coelho Decl. at ¶ 6. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

b. Sufficient Investigation and Discovery Have Been Conducted

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

c. Plaintiff’s Counsel is Experienced in Similar Litigation

Plaintiff is represented by Wilshire Law Firm, PLC. Coelho Decl. at ¶ 22. Plaintiff’s Counsel has extensive experience litigating wage and hour class actions on behalf of employees.

1 *See id.* at ¶¶ 22-29. Plaintiff's Counsel has been involved as counsel in numerous class actions that
2 have resulted in millions of dollars in recovery. *See id.*

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

5 A settlement does not have to provide 100% of the damages sought to be considered fair
6 and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990). Although
7 the exposure Plaintiff's Counsel calculated is substantial, the various risks of succeeding at class
8 certification and through trial affected the valuation of the claims for settlement purposes. Coelho
9 Decl. at ¶ 12.

10 Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage claims
11 were based on the allegation that Defendants required Class Members to perform work duties
12 while off the clock, without compensation. Coelho Decl. at ¶ 13. For example, Plaintiff alleged
13 that Defendants required him and other Class Members to perform work-related tasks after they
14 clocked out of work. *Id.* For purposes of calculating Defendants' liability based on a best-case
15 scenario for Plaintiff and the Class, Plaintiff's Counsel assumed that all unpaid worktime should
16 have been paid at the overtime rate of pay and conservatively estimated that Defendants are liable
17 for one (1) hour of unpaid worktime per workweek. *Id.* This results in potential exposure for this
18 claim of approximately \$735,306 (21,425 workweeks x \$22.88 average hourly rate of pay x 1
19 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class
20 Member testimony and would not be evidenced in Defendants' time and payroll records, the risk
21 of succeeding at class certification and trial was substantial. Accordingly, Plaintiff's Counsel
22 applied a risk discount based on a 40% chance of succeeding at class certification and a 40% chance
23 of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
24 \$117,648.96 (\$735,306 x 40% x 40%). *Id.*

25 Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants
26 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
27 in lieu thereof. Coelho Decl. at ¶ 14. For example, Plaintiff alleged that Defendants required him
28 and other Class Members to work through their meal periods. *Id.* Additionally, Plaintiff's

Counsel's expert consultant determined there was a 52% meal period violation rate (for shifts over 5 hours) from the sampling of Defendants' time and payroll records, where meal periods were short, late, or missed (there was a 48.9% violation rate for shifts over 6 hours that are not waivable). *Id.* Therefore, potential liability for the meal period claim is approximately \$1,184,525.06 (99,560 shifts over 5 hours x \$22.88 average hourly rate x 52% violation rate). *Id.* After taking into account the difficulty of certifying and proving meal period claims, as well as Defendants' contention that the claim lacks merit and that a 52% violation rate is unrealistic, Plaintiff's Counsel discounted this figure based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial, yielding a realistic damage estimate of approximately \$236,905.01 (\$1,184,525.06 x 50% x 40%). *Id.*

Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. Coelho Decl. at ¶ 15. For example, Plaintiff alleged that Defendants required him and other Class Members to work through their rest periods. *Id.* Based on Plaintiff's allegations and Plaintiff's and other Class Members' experience working for Defendants, Plaintiff's Counsel applied a 100% violation rate to all qualifying shifts during the Class Period. Therefore, Defendants' potential liability for the rest period claim is approximately \$2,313,831.52 (101,129 shifts of 3.5 hours or longer x \$22.88 average hourly rate x 100% violation rate). However, Plaintiff's Counsel discounted this figure to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest period. *Id.* Because this claim would have relied exclusively on Class Member testimony, Plaintiff's Counsel discounted this claim based on a 30% chance of succeeding at class certification and a 20% chance of succeeding at trial, yielding a realistic damage estimate of approximately \$138,829.89 (\$2,313,831.52 x 30% x 20%). *Id.*

Reimbursements: Plaintiff's reimbursement claim was based on the allegation that Defendants failed to indemnify Class Members for expenses incurred as a direct result of performing their job duties for Defendants, such as mandatory use of personal cell phones for work

1 purposes. Coelho Decl. at ¶ 16. For purposes of calculating Defendants' liability based on a best-
2 case scenario for Plaintiff and the Class, Plaintiff's Counsel estimated that Defendants were liable
3 to each Class Member for \$10.00 per workweek in unreimbursed expenses, for a total amount of
4 approximately \$214,250.00 (\$10.00 x 21,425 workweeks). *Id.* However, Defendants argued that
5 these expenses were not required by Defendants, and that they could not have known that these
6 expenses were being incurred. *Id.* Accordingly, Plaintiff's Counsel discounted this claim based on
7 a 30% chance of succeeding at class certification and a 30% chance of succeeding at trial, yielding
8 a realistic damage estimate of approximately \$19,282.50 (\$214,250.00 x 30% x 30%). *Id.*

9 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
10 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
11 approximately \$4,233,662.58. Coelho Decl. at ¶ 17. However, after factoring in the risk and
12 uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's
13 realistic estimated recovery for these non-penalty wage claims is approximately \$493,383.86. *Id.*

14 Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages
15 owed, Defendants owed waiting time penalties and wage statement penalties. Coelho Decl. at ¶ 18.
16 With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated
17 that Defendants' maximum potential liability is approximately \$5,091,932.00. *Id.* Defendants'
18 maximum potential liability for waiting time penalties is approximately \$4,336,332 (722
19 employees x \$22.88 average hourly rate of pay x 8 hours/day x 30 days] + [722 employees x \$22.88
20 average hourly rate of pay x 0.5 hours of overtime/day x 1.5 overtime rate x 30 days]) based on
21 approximately 722 formerly employed Class Members during the 3-year statute of limitations
22 period and an average shift length of 8.5 hours. *Id.* Defendants' maximum potential liability for
23 inaccurate wage statements is approximately \$755,600.00 ([762 employees x 1 initial
24 violation/employee x \$50 for an initial violation] + [(7,937 pay periods – 762 initial violations) x
25 \$100 for each subsequent violation]). *Id.* In light of the foregoing, Plaintiff's Counsel believes that
26 it would be unrealistic to expect the Court to award the full \$5,091,932.00 in statutory penalties
27 given Defendants' defenses, the contested nature of Plaintiff's claims, the challenges of
28 establishing willfulness as applicable, and the discretionary nature of penalties. *Id.* Considering

1 that the underlying wage claims are realistically estimated to be approximately \$493,383.86 , such
2 a disproportionate award would also raise due process concerns. *Id.* As such, Plaintiff's counsel
3 discounted these figures to account for the risk and uncertainty of obtaining class certification and
4 prevailing at trial, resulting in a realistic evaluation of approximately \$260,179.92 for waiting time
5 penalty claims ($\$4,336,332.00 \times 30\% \times 20\%$), and approximately \$45,336.00 for wage statement
6 penalty claims ($\$755,600.00 \times 30\% \times 20\%$), or approximately \$305,515.92 total for statutory
7 penalties. *Id.*

8 PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendants' potential
9 exposure could reach \$793,700.00, assuming the initial \$100 penalty would apply for each of the
10 7,937 pay periods in the PAGA Period. Coelho Decl. at ¶ 19. However, even assuming success on
11 the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of
12 reasons, including where to do otherwise would result in an award that is unjust, arbitrary and
13 oppressive, or confiscatory. *Id.* As such, Plaintiff's counsel discounted this figure to account for
14 the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately
15 \$79,370.00 for PAGA penalties ($\$793,700.00 \times 10\%$). *Id.* The settlement allocates \$39,000.00 of
16 the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 5% of the Gross
17 Settlement Amount and approximately 49% of the realistic maximum damages for PAGA penalties
18 ($\$39,000.00 / \$79,370.00$). *Id.*

19 Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum
20 recovery for all claims, including penalties, would be approximately \$897,552.28. Coelho Decl. at
21 ¶ 20. This means that the gross settlement amount represents approximately 87% of the realistic
22 maximum recovery ($\$780,000.00 / \$897,552.28$). *Id.* Considering the risk and uncertainty of
23 prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
24 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
25 avoid the risk of an unfavorable judgment. *Id.*

26 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
27 class settlement payments is currently estimated to be \$420,005.00 for approximately 1,024 Class
28 Members. Coelho Decl. at ¶ 21. As a result, each Class Member would be eligible to receive an

1 average net benefit of approximately \$410.16. *Id.* Based on the estimated Net Settlement Amount
2 available for individual class payments and there being approximately 21,425 workweeks in the
3 Class Period, the estimated weekly valuation for Individual Class Payments is \$19.60
4 (\$420,005.00/ 21,425 workweeks). *Id.*

5 **C. The Requested Service Payment is Reasonable**

6 Plaintiff seeks an Enhancement Award of up to \$10,000.00 for accepting the
7 responsibilities of representing the interests of the Class and potential costs that were not borne by
8 any other Class Member. Settlement Agreement at § 3.2.1. A named plaintiff is eligible for
9 payment that reasonably compensates the plaintiff for undertaking and fulfilling a fiduciary duty
10 to represent absent class members. *See Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380,
11 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004).

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

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

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

1 Plaintiff seeks appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
2 performed significant work and expended litigation costs in prosecuting this matter with no
3 guarantee of payment. Coelho Decl. at ¶ 22. Plaintiff's Counsel seeks preliminary approval for up
4 to thirty-five percent (35%) of the Gross Settlement Amount in attorneys' fees, currently estimated
5 to be \$273,000.00 and up to \$25,000.00 in reimbursement of litigation costs. Given the work
6 performed in this matter, the extensive information exchange, and the substantial recovery obtained
7 on behalf of the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent
8 work. *See generally*, Coelho Decl. At final approval, Plaintiff's Counsel will fully brief the merits
9 of its request for the award of attorneys' fees and litigation costs.

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

11 The Parties have agreed upon using Phoenix to administer this Settlement. Settlement
12 Agreement at §§ 1.2, 7.1. Plaintiff seeks preliminary approval of \$12,995.00 for Phoenix to
13 administer this Settlement pursuant to Phoenix's will-not-exceed bid. *See* Coelho Decl. at ¶ 32,
14 Exhibit 4. The services covered by this payment are extensive and necessary to carry out the
15 Settlement administration.

16 **V. CONCLUSION**

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

22 Respectfully submitted,

23 Dated: September 11, 2026

WILSHIRE LAW FIRM, PLC

24
25 By: _____


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26
27
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