

WILSHIRE LAW FIRM, PLC
Tyler Woods (SBN 232464)
tyler.woods@wilshirelawfirm.com
Alan Wilcox (SBN 287476)
alan.wilcox@wilshirelawfirm.com
Lucy Nguyen (SBN 338783)
lucy.nguyen@wilshirelawfirm.com
Conor Gomez, Esq. (SBN 337395)
conor.gomez@wilshirelawfirm.com
660 South Figueroa Street, Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs

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

ARTURO ORTIZ, individually, and on behalf of
other members of the general public similarly
situated, JORGE VALERO, individually, and on
behalf of other members of the general public
similarly situated, ANGEL SANCHEZ,
individually, and on behalf of other members of
the general public similarly situated,

Plaintiffs,

v.

HOLLYWOOD DELIVERY SERVICE, INC., a
California corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVSB2432874
Assigned to Hon. Stephanie Tanada, Dept.
S33

Complaint Filed: October 30, 2024
FAC Filed:
Trial Date: None Set

CLASS & REPRESENTATIVE ACTION

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

PRELIMINARY APPROVAL HEARING

Date: June 2, 2026
Time: 8:30 a.m.
Dept: S33

TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on June 2, 2026 at 8:30 a.m., in Department S33 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, CA 92415, pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq.*, Plaintiffs Arturo Ortiz, Jorge Valero, and Angel Sanchez (“Plaintiffs” or “Class Representative”) will move the Court for an Order granting preliminary approval of the proposed \$300,000.00 (the “Gross Settlement Amount”) Class Action and PAGA Settlement Agreement and Class Notice (the “Settlement” or “Settlement Agreement”) between Plaintiffs and the putative class members who, for one or more hours during the Class Period, provided labor or services for Defendant in California for remuneration, as more fully defined in Labor Code section 2775, *et seq.*, including current and former employees. (each a “Class Member” and collectively the “Class”) between October 30, 2020 through the earlier of June 30, 2026 or the day the Court grants preliminary approval of the Settlement (the “Class Settlement Period”) and Defendant Hollywood Delivery Service, Inc. (“Defendant,” and together with Plaintiffs, the “Parties”) to resolve the wage and hour class action and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action between Plaintiffs, on behalf of the Class, and Defendant (the “Action”). Plaintiffs further move the Court for an Order:

1. Granting preliminary approval of the Settlement Agreement;
2. Certifying the Class for settlement purposes;
3. Approving the proposed class notice (the “Class Notice”) and the plan for distribution of the Class Notice;
4. Appointing Plaintiffs Arturo Ortiz, Jorge Valero, and Angel Sanchez as Class Representatives for settlement purposes;
5. Appointing Plaintiffs’ Counsel, Tyler J. Woods, Alan Wilcox, Lucy Nguyen, and Conor Gomez of Wilshire Law Firm, PLC (“WLF”) as “Class Counsel” for settlement purposes;
6. Appointing Apex Class Action Administration as the “Administrator”; and
7. Scheduling a final approval hearing.

1 The motion will be based upon this notice, the attached memorandum of points and
2 authorities, the Declarations of Lucy Nguyen (the “Class Counsel Declaration”), Arturo Ortiz,
3 Jorge Valero, and Angel Sanchez, filed concurrently herewith, the records and files in the Action,
4 and any other further evidence or argument that the Court may properly receive at or before the
5 hearing.

6
7
8 Dated: March 26, 2026

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

9
10 By: _____

Tyler J. Woods
Alan Wilcox
Lucy Nguyen
Conor Gomez

11
12 Attorneys for Plaintiffs
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

NOTICE OF MOTION AND MOTION.....	i
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES.....	v
MEMORANDUM OF POINTS AND AUTHORITIES.....	1
I. INTRODUCTION.....	1
II. SUMMARY OF THE LITIGATION AND SETTLEMENT.....	1
A. Plaintiffs’ Claims	1
B. Discovery and Investigation.....	2
C. Settlement Negotiations	2
D. Key Terms of the Proposed Settlement.....	3
III. DISCUSSION	7
A. A Presumption of Fairness Exists Over The Settlement.....	7
1. The Settlement Is the Product of Arm’s-Length Negotiations.....	7
2. The Parties Conducted Sufficient Investigation.....	8
3. Class Counsel Has Extensive Experience in Class Action Litigation.....	8
4. The Percentage of Objectors Is Small.....	8
B. The Settlement Is Fair, Just, Reasonable, and Adequate	8
1. Plaintiffs’ Strengths and Risks of Continued Litigation	9
2. The Gross Settlement Amount Is Reasonable.....	10
C. The Proposed Attorneys’ Fees and Costs Are Reasonable	11
1. Class Counsel Request an Award of the Class Counsel Fees Based on the	
“Common Fund” Method	11
2. The Requested Fee Award Is in Line with Typical Cases	12
3. This Matter Involves A “Fee-Shifting” Provision of the Labor Code	12
4. The Experience, Reputation and Ability of Class Counsel Support the	
Requested Fee Award	13
D. The PAGA Allocation is Reasonable.....	13

1	E. The Enhancement Awards to Named Plaintiffs Are Reasonable.....	14
2	IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED	16
3	A. Legal Standard	16
4	B. Plaintiffs Maintain That the Criteria for Class Certification Are Satisfied for	
5	Settlement Purposes.	17
6	1. The Class is Ascertainable and Numerous.....	17
7	2. There is a Well-Defined Community of Interest in the Questions of Law and	
8	Fact.....	18
9	3. A Class Action is Superior to a Multiplicity of Litigation.....	20
10	V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND	20
11	A. The Proposed Class Notice Plan Satisfies Due Process.....	20
12	B. The Class Notice is Accurate and Informative	21
13	C. The Proposed Class Notice of Settlement Should Be Approved	21
14	VI. CONCLUSION	22

TABLE OF AUTHORITIES

STATE CASES

<i>ABM Industries Overtime Cases</i> , (2017) 19 Cal.App.5th 277	17, 18
<i>Bowles v. Super. Ct.</i> (1955) 44 Cal.2d 574	18
<i>Brinker Restaurant Corp. v. Superior Court</i> (2012) 53 Cal.4th 1004	17
<i>Cartt v. Super Ct</i> (1975) 50 Cal.App.3d 960.....	21
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	12
<i>City and County of San Francisco v. Sweet</i> (1995) 12 Cal.4th 105	11
<i>Classen v. Weller</i> (1983) 145 Cal.App.3d 27	19
<i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605.....	19
<i>Collins v. Rocha</i> (1972) 7 Cal.3d 232	18
<i>D’Amico v. Bd. of Medical Examiners</i> (1974) 11 Cal.3d 1	11
<i>Dunk v. Ford Motor Co.</i> , (1996) 48 Cal.App.4th 1794	7
<i>Faulkinbury v. Boyd & Associates, Inc.</i> (2013) 216 Cal.App.4th 220.....	17
<i>Gentry v. Super. Ct.</i> (2007) 42 Cal.4th 443	15
<i>In re Tobacco II Cases</i> , (2009) 46 Cal.App.4th 298, 313	16
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116	9, 10
<i>Laffitte v. Robert Half Int’l Inc.</i> (2016) 1 Cal.5th 480.....	11
<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429	17
<i>Mallick v. Super. Ct.</i> (1979) 89 Cal.App.3d 434	7
<i>McGhee v. Bank of America</i> (1976) 60 Cal.App.3d 442	20
<i>Miller v. Woods</i> (1983) 148 Cal. App. 3d 862	20
<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399	10, 14
<i>Quinn v. State of California</i> (1995) 15 Cal.3d 162.....	11
<i>Richmond v. Dart Indus., Inc.</i> (1981) 29 Cal. 3d 462.....	16, 17, 18
<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	18

1	<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	11
2	<i>Stamburgh v. Super. Ct.</i> (1976) 62 Cal.App.3d 231	9
3	<i>Wershba v. Apple Computers, Inc.</i> (2001) 91 Cal.App.4th 224.....	10
4	<u>FEDERAL CASES</u>	
5	<i>Frank v. Eastman Kodak Co.</i> (W.D.N.Y. 2005) 228 F.R.D. 174	15
6	<i>Garcia v. Gordon Trucking, Inc.</i> (E.D. Cal. Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575	14
7	<i>Hopson v. Hanesbrands Inc.</i> (N.D. Cal. Apr. 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133	14
9	<i>Jack v. Hartford Fire Ins. Co.</i> (S.D. Cal. Oct. 13, 2011) 2011 WL 4899942	14
10	<i>Leyva v. Medline Ind.</i> (9th Cir. 2013) 716 F.3d 510	20
11	<i>McKenzie v. Fed. Express Corp.</i> (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124	14
12	<i>Moreno v. Pretium Packaging, L.L.C.</i> (C.D. Cal. Aug. 6, 2021) 2021 WL 3673845	15
13	<i>Priddy v. Edelman</i> , (6th Cir. 1989) 883 F.2d 438	10
14	<i>Rodriguez v. W. Publ'g Corp.</i> (9th Cir. 2009) 563 F.3d 948	15
15	<i>Suarez v. Bank of America, National Association</i> (N.D. Cal., Jan. 11, 2024, No. 18-CV-01202- LB) 2024 WL 150721	15
17	<i>Van Vranken v. Atlantic Richfield Company</i> (N.D. Cal. 1995) 901 F.Supp. 294.....	12
18	<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	11
19	<i>Zubia v. Shamrock Foods Co.</i> (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431	14
21	<u>TREATISES</u>	
22	Conte & Newberg, <i>Newberg on Class Actions</i> (3rd Ed.)	7, 12, 21
23	<u>OTHER SOURCES</u>	
24	Eisenberg & Miller, <i>Incentive Awards to Class Action Plaintiffs: An Empirical Study</i> (2006) 53 UCLA L.Rev. 1303.....	15

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs seek preliminary approval of a proposed Settlement Agreement entered into between Plaintiffs (on behalf of the Class) and Defendant. The Settlement Agreement will provide substantial monetary payments to approximately 193 Class Members. And, as set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, discovery, and negotiations. The negotiations were at arm's-length and were facilitated by an experienced class action mediator Michael Mandel. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses, the Parties reached the Settlement on February 12, 2026. Accordingly, Plaintiffs request that the Court preliminarily approve the proposed Settlement, certify the Class, approve the proposed Class Notice, and set a final approval hearing.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiffs' Claims

Plaintiffs allege that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Specifically, Plaintiffs allege that Defendant failed to pay for all hours worked. Plaintiffs further allege that Defendant failed to provide employees with legally compliant meal and rest periods, Defendant failed to provide accurate itemized wage statements, Defendant failed to reimburse business expenses, Defendant failed to pay timely wages at termination, and Defendant failed to provide sick leave. (Class Counsel Decl. ¶ 3.)

Based on these allegations, on October 30, 2024, Plaintiffs filed a putative wage and hour class action complaint in the San Bernardino County Superior Court (Case No. CIVSB2432874, the "Class Action") against Defendant alleging: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code § 226.7); (5) failure to provide accurate itemized wage statements (Labor Code § 226); (6) failure to indemnify employees for expenditures (Labor Code § 2802); (7) failure to timely pay final

1 wages at termination (Labor Code §§ 201-203); (8) failure to provide sick leave (Labor Code
2 §§ 245, et seq.); and (9) unfair business practices (Business and Professions Code §§ 17200, et
3 seq.). (*Id.* at ¶ 4.)

4 Each Plaintiff also sent a separate notice to Defendant and the California Labor &
5 Workforce Development Agency (“LWDA”) alleging similar wage and hour violations pursuant
6 to the Private Attorneys General Act (“PAGA”) on October 28, 2024. (*Id.*)

7 On March 19, 2025, Plaintiffs filed a PAGA representative action seeking civil penalties
8 pursuant to Labor Code § 2699, et seq. in the San Bernardino Superior Court (Case No.
9 CIVSB2510024, the “PAGA Action”)

10 The Parties subsequently identified related actions involving overlapping claims and
11 agreed that consolidation would promote judicial efficiency and avoid duplicative litigation.
12 Accordingly, the Parties have submitted a Stipulation to Consolidate, which is currently pending
13 before the Court.

14 **B. Discovery and Investigation**

15 Following the filing of the Action, the Parties exchanged documents and information
16 before going to mediation. Defendant produced a sample of time and pay records for Class
17 Members. Defendant also provided documents of its wage and hour policies and practices during
18 the Class Period, and information regarding the total number of current and former employees
19 in its informal discovery responses. (*Id.* at ¶ 5.)

20 After reviewing documents regarding Defendant’s wage and hour policies and practices
21 and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to evaluate
22 the probability of class certification, success on the merits, and Defendant’s maximum monetary
23 exposure for all claims. (*Id.* at ¶ 6.) Class Counsel also investigated the applicable law regarding
24 the claims and defenses asserted in the Action. (*Id.*) Class Counsel reviewed these records and
25 prepared a damage analysis prior to mediation. (*Id.*) This extensive investigation and discovery
26 allowed Class Counsel to act intelligently and effectively in negotiating the Settlement.

27 **C. Settlement Negotiations**

28 On December 30, 2025, the Parties participated in private mediation with experienced

1 class action mediator Michael Mandel. (*Id.* at ¶ 7.) The mediation was conducted via Zoom. The
2 settlement negotiations were at arm's length and, although conducted in a professional manner,
3 were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
4 settlement of the Action, but the Parties were also prepared to litigate their position through
5 trial and appeal if a settlement had not been reached. (*Id.*) With the help of Mr. Mandel, the
6 Parties were able to reach an agreement on general settlement terms at mediation and executed
7 a Memorandum of Understanding thereafter. (*Id.*) After extensive negotiations and discussions
8 regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses, the
9 Parties agreed to settle the Action, the material terms of which are encompassed within the
10 Settlement. (*Id.* at ¶ 8, Ex. 1, Settlement Agreement.)

11 Class Counsel has conducted a thorough investigation into the facts of this case. Based
12 on the foregoing discovery and their own independent investigation and evaluation, Class
13 Counsel is of the opinion that the Settlement is fair, just, reasonable, and adequate and is in the
14 best interests of the Class Members in light of all known facts and circumstances, the risk of
15 significant delay, the defenses that could be asserted by Defendant both to certification and on
16 the merits, trial risk, and appellate risk. (*Id.* at ¶ 14.)

17 Indeed, the Gross Settlement Amount represents approximately **61%** of the **realistic**
18 **maximum recovery** of \$488,312.81. (*Id.* at ¶ 23.) Although Class Counsel estimated that
19 Defendant's maximum potential liability for all claims was approximately \$2.4 million, when
20 the risk of prevailing at certification and trial are factored into the equation, Class Counsel
21 believes that Defendant's realistic exposure was \$488,312.81, meaning the Settlement achieves
22 a significant recovery. (*Id.* at ¶¶ 14-27.) Considering the risk and uncertainty of prevailing at
23 class certification and at trial, this is an excellent result for the Class. (*Id.* at ¶ 26.) Indeed,
24 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and
25 will avoid the risk of an unfavorable judgment.

26 **D. Key Terms of the Proposed Settlement**

27 The Settlement's key terms include:
28

1 1. Class Period or Class Settlement Period: “means the period from October 30, 2020
2 through the earlier of June 30, 2026, or the day the Court grants preliminary approval of the
3 Settlement (“Settlement Class Period”).” (Settlement, § 1.13.)

4 2. Participating Class Members: “Class Members” means all individuals who fall within
5 the definition of the Class as set forth in the Settlement Agreement. (Settlement, § 1.5.)

6 3. Aggrieved Employee: “means all individuals who, for one or more hours during the
7 PAGA Period, provided labor or services for Defendant in California for remuneration, as more
8 fully defined in Labor Code section 2775, et seq., including current and former employees inclusive
9 of the current and former employees who previously signed Pick-Up Stix Settlement Agreements.”
10 (Settlement, § 1.4.)

11 4. Gross Settlement Amount or “GSA”: “means \$300,000.00, which is the total amount
12 Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below.”
13 (Settlement, § 1.23.)

14 5. Uncashed Checks: “For any Class Member whose Individual Class Payment check or
15 Individual PAGA Payment check is uncashed and canceled after the void date, the Administrator
16 shall transmit the funds represented by such checks to the California Controller's Unclaimed
17 Property Fund in the name of the Class Member thereby leaving no “unpaid residue” subject to the
18 requirements of California Code of Civil Procedure Section 384, subd. (b).” (Settlement, § 4.4.3.)

19 6. Release Class Claims: “All Participating Class Members will waive and release all
20 claims asserted in the complaint filed in the Class Action or that could have been based on the
21 factual allegations asserted in the complaint filed in the Class Action during the Class Period
22 (collectively the “Released Class Claims”).” (Settlement, § 5.2.)

23 7. Release by PAGA Claims: “The claims released by Aggrieved Employees, including
24 Non-Participating Class Members who are Aggrieved Employees, are all claims for civil penalties
25 under PAGA arising during the PAGA Period that were alleged in Plaintiffs’ PAGA Notice to the
26 LWDA and the complaint filed in the PAGA Action, or that could have been based on the facts
27 asserted in the PAGA Notice and the complaint filed in the PAGA Action against Released Parties
28 (collectively the “Released PAGA Claims”).” (Settlement, § 5.3.)

1 8. No Reversion: “The Gross Settlement Amount is non-reversionary and does not include
2 employer payroll taxes owed on the wage portions of the Individual Class Payments, which
3 Defendant will pay separately.” (Settlement, § 3.1.)

4 9. PAGA Penalties: “means the total amount of PAGA civil penalties to be paid from the
5 Gross Settlement Amount (\$45,000.00), allocated 35% to the Aggrieved Employees (\$15,750.00)
6 and 65% to LWDA (\$29,250.00) in settlement of PAGA claims.” (Settlement, § 1.37.) Class
7 Counsel submitted the proposed settlement to the LWDA before filing this Motion for Preliminary
8 Approval. (Class Counsel Decl., ¶ 9.)

9 10. Net Settlement Amount: “means the Gross Settlement Amount, less the following
10 payments in the amounts approved by the Court: PAGA Penalties payment, Enhancement, Class
11 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Costs
12 Payment. The remainder is to be paid to Participating Class Members as Individual Class
13 Payments.” (Settlement, § 1.29.)

14 11. Distribution Formula: As to Class: “An Individual Class Payment is calculated by (a)
15 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
16 Class Members during the Class Period, and (b) multiplying the result by each individual
17 Participating Class Member’s Workweeks.” (Settlement, § 3.2.4.) As to PAGA: “The
18 Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the
19 Aggrieved Employees’ 35% share of PAGA Penalties (\$15,750.00) by the total number of PAGA
20 Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b)
21 multiplying the result by each individual Aggrieved Employee’s PAGA Pay Periods. Aggrieved
22 Employees assume full responsibility and liability for any taxes owed on their Individual PAGA
23 Payment.” (Settlement, § 3.2.5.1.)

24 12. Tax Allocation: “Fifteen percent (15%) of each Participating Class Member’s
25 Individual Class Payment will be allocated to the Settlement of wage claims (the “Wage Portion”).
26 The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. The
27 remaining 85% of each Participating Class Member’s Individual Class Payment will be allocated
28

1 to the settlement of claims for interest and penalties (the “Non-Wage Portion”).” (Settlement, §
2 3.2.4.1.)

3 13. Class Representative Service Payment(s) or “Enhancement Award(s): “A payment for
4 the Enhancement Award to each of the Plaintiffs of not more than \$5,000.00 (for not more than a
5 total of \$15,000.00) in addition to any Individual Class Payment and any Individual PAGA
6 Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant
7 will not oppose Plaintiffs’ request for an Enhancement Award that does not exceed this amount.”
8 (Settlement, § 3.2.1.)

9 14. Class Counsel Litigation Expenses Payment: “means the amount allocated to Class
10 Counsel for reimbursement of reasonable expenses and costs incurred to prosecute the Action, not
11 to exceed \$20,000.00, and paid from the Gross Settlement Amount.” (Settlement, § 1.8.)

12 15. Administrator: “means Apex Class Action Administration, the neutral entity the Parties
13 have agreed to appoint to administer the Settlement.” (Settlement, § 1.2.)

14 16. Administration Costs: “means the amount the Administrator will be paid from the Gross
15 Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
16 Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary
17 Approval of the Settlement.” (Settlement, § 1.3.)

18 17. Class Notice: The Class Notice sets forth in plain terms, a statement of the Action,
19 the terms of the Settlement Agreement, the approximate amount of the Class Counsel Fees, Class
20 Counsel Costs, and Class Representative Enhancement Award being sought, and an explanation of
21 how the Settlement allocations are calculated. (Settlement, Ex. A, Class Notice.) Class Members
22 will be notified by first-class United States Postal Service (“USPS”) mail of the Settlement.
23 (Settlement, § 7.4.2.) The Settlement Administrator will undertake its best efforts to ensure that
24 the Class Notice is provided to the current addresses of Class Members, including conducting a
25 national change of address search and re-mailing the Class Notice to updated addresses. (*Id.*; Ex.
26 2 [Apex Class Action Administration Bid].)

27 18. Escalator Clause: The parties stipulate to a 10% escalation of the estimated
28 workweeks without any increase to the Gross Settlement Amount. Should the workweeks increase

1 more than 10%, the Gross Settlement Amount will increase on a proportional basis equal to the
2 percentage increase in the number of workweeks worked by the Class Members above the 10%
3 (for example, if the final number of total workweeks increases by 11%, the Gross Settlement
4 Amount will increase 1%). Similarly, if the PAGA Pay Period increases by more than 10%, then
5 the PAGA penalties will be increased by an amount proportional to the increase in PAGA Pay
6 Periods worked by the Aggrieved Employees above 10%. (Settlement, § 8.0.)

7 19. Defendant agrees not to oppose class certification and representative treatment for
8 purposes of Settlement only. (Settlement, § 11.1.)

9 **III. DISCUSSION**

10 To prevent fraud, collusion, or unfairness to the class, the settlement of a class action
11 requires court approval. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01.) This
12 Court has wide discretion to determine whether the proposed Settlement is fair. (*Mallick v. Super.*
13 *Ct.* (1979) 89 Cal.App.3d 434, 438.)

14 **A. A Presumption of Fairness Exists Over The Settlement**

15 Fairness is presumed when: (1) the settlement is reached through arm's-length bargaining;
16 (2) investigation is sufficient to allow counsel and the court to act intelligently; (3) counsel is
17 experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk* at p. 1800.)

18 **1. The Settlement Is the Product of Arm's-Length Negotiations**

19 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
20 evidence to the contrary is offered. No evidence to the contrary has been offered here; thus, there
21 is a presumption that the negotiations were conducted in good faith. (Conte & Newberg, *Newberg*
22 *on Class Actions* (3rd Ed.) § 11.51.)

23 The Settlement was reached following extensive negotiations following one day of
24 mediation with experienced employment mediator, Michael Mandel. (Class Counsel Decl., ¶ 7.)
25 The settlement negotiations were at arm's length and, although conducted in a professional manner,
26 were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
27 settlement of the dispute, but each side was also prepared to litigate their or its position through
28 trial and appeal if a settlement had not been reached. (*Id.*) With the help of Mr. Mandel, the Parties

1 were able to reach an agreement on general settlement terms at mediation and executed a
2 Memorandum of Understanding thereafter. (*Id.*) After extensive negotiations and discussions
3 regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses, the Parties
4 reached an agreement. (*Id.* at ¶ 8.)

5 **2. The Parties Conducted Sufficient Investigation**

6 Prior to reaching this Settlement, Class Counsel conducted informal discovery concerning
7 the claims set forth in the Action, such as a sample of Class Member timekeeping and payroll
8 records, Defendant's policies and procedures concerning the payment of wages, the provision of
9 meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well
10 as information regarding the number of putative Class Members and the mix of current versus
11 former employees, the wage rates in effect, and the amount of meal and rest period premium wages
12 paid to Class Members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual investigation,
13 Class Counsel investigated the applicable law regarding the claims and defenses asserted in the
14 Action. (*Id.*) Thus, Plaintiffs and Class Counsel were able to act intelligently and effectively in
15 negotiating the proposed Settlement. (*Id.*)

16 **3. Class Counsel Has Extensive Experience in Class Action Litigation**

17 The settlement negotiations were conducted by highly capable and experienced counsel.
18 Class Counsel have a strong record of vigorous and effective advocacy for their clients and are
19 experienced in handling complex wage and hour class action litigation. (*Id.* at ¶¶ 37-66.) Although
20 Plaintiffs and Class Counsel were prepared to litigate the claims alleged in the Action, they believe
21 the proposed Settlement is in the best interests of the Class.

22 **4. The Percentage of Objectors Is Small**

23 This factor cannot yet be determined unless and until the Court preliminarily approves the
24 Motion and the Class Notice. This factor will be properly addressed in Class Counsel's Motion
25 for Final Approval of Class Action Settlement, should this Court grant the instant Motion.

26 **B. The Settlement Is Fair, Just, Reasonable, and Adequate**

27 In considering whether a settlement is fair, just, reasonable, and adequate the trial court
28 should consider relevant factors, which may include the strength of plaintiffs' case, the risk,

1 expense, complexity and likely duration of further litigation, the risk of maintaining class action
2 status through trial, the amount offered in settlement, the extent of discovery completed and the
3 stage of the proceedings, the experience and views of counsel, ... and the reaction of the class
4 members to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
5 116, 128.) Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh*
6 *v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236.)

7 While Plaintiffs believe their claims have merit, continued litigation would present
8 significant risks regarding class certification, proof of liability, damages calculations, and potential
9 defenses asserted by Defendant. Class Counsel has provided information exceeding the threshold
10 required to provide this Court with materials and information necessary to determine that the
11 proposed Settlement is fair, just, adequate, and reasonable.

12 **1. Plaintiffs' Strengths and Risks of Continued Litigation**

13 Based on Plaintiffs' discovery and investigation, Class Counsel reached the conclusion that
14 Defendant had a policy and practice of: requiring its employees to work "off-the-clock" prior to
15 clocking in for the workday, during meal periods, and after clocking out for the workday, time
16 which it did not pay for; not providing its employees with California compliant meal and rest
17 periods, which it did not pay appropriate premiums for; and failing to reimburse its employees for
18 business-related expenses. Defendant denies these claims. (Class Counsel Decl., ¶ 16.)

19 While Plaintiffs are confident in the merits of their claims, a legitimate controversy exists
20 as to each cause of action. (Class Counsel Decl., ¶ 24.) Plaintiffs recognize that proving the amount
21 of wages due to each class member would be an expensive, time-consuming, and uncertain
22 proposition. (*Id.*) Although the Parties had engaged in significant amount of investigation, informal
23 discovery and Class-wide data analysis, the Parties had not yet completed formal written discovery.
24 (Class Counsel Decl., ¶ 25.) Plaintiffs intended to depose corporate officers and managers of
25 Defendant. (*Id.*) Moreover, preparation for a class certification and a trial remained for the Parties
26 as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs
27 and/or adverse summary judgment ruling. (*Id.*) Had the Court certified any claims, Defendant
28 could not move to decertify the claims. (*Id.*) As a result, the Parties would incur considerably more

attorneys' fees and costs through trial. (*Id.*) This Settlement avoids the risks and the accompanying expense of further litigation. (Class Counsel Decl., ¶ 25.)

Balancing the strengths of Plaintiffs' claims against the risks of continued litigation of the Action, Plaintiffs and Class Counsel determined that the proposed Settlement was in the best interests of the Class.

2. The Gross Settlement Amount Is Reasonable

In order to approve a class action settlement, the Court must satisfy itself that the class settlement is within the "ballpark" of reasonableness. (*Kullar*, at 133.) The fact that a plaintiff might have received more if the case had been fully litigated is no reason not to approve the settlement. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447.) The record need not contain an explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408-9 [holding that *Kullar* does not require "an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims", but instead, only an "understanding of the amount that is in controversy and the realistic range of outcomes of the litigation."].)

A settlement is not judged against what might plaintiff recover had he prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 246, 250 ["Compromise is inherent and necessary in the settlement process . . . even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation."].)

The proposed Gross Settlement Amount represents a substantial recovery when compared to Plaintiffs' reasonably forecasted recovery. (Class Counsel Decl. at ¶¶ 14-27.) Because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. When considering the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the Settlement is within the "ballpark" of

1 reasonableness, and preliminary settlement approval is appropriate. (*Id.*) ***Indeed, each Class***
2 ***Member is eligible to receive an average net benefit of approximately \$569.95.*** (*Id.* at ¶ 27.)

3 **C. The Proposed Attorneys’ Fees and Costs Are Reasonable**

4 Under the Settlement, subject to the Court’s approval, Defendant agrees to pay Class
5 Counsel the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. These
6 amounts are disclosed to all Class Members in the proposed Class Notice and are reasonable. (Class
7 Counsel Decl., ¶ 33.)

8 **1. Class Counsel Request an Award of the Class Counsel Fees Based on the**
9 **“Common Fund” Method**

10 California courts have long awarded attorneys’ fees as a percentage of the benefit created
11 by counsel in creating a common fund. The California Supreme Court held that “when a number
12 of persons is entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs
13 for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs
14 may be awarded attorneys’ fees out of the fund.” (*Serrano v. Priest* (1977) 20 Cal.3d 25, 34,
15 quoting *D’Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1.)

16 Class Counsel seeks approval of the Class Counsel Fees based on the “percentage of
17 recovery/common fund” theory. The purpose of this approach is to “spread litigation costs
18 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
19 burden alone.” (*Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v.*
20 *State of California* (1995) 15 Cal.3d 162, the California Supreme Court stated: “[O]ne who expends
21 attorneys’ fees in winning a suit which creates a fund from which others derive benefits may require
22 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly,
23 in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
24 recognized that the common fund doctrine has been applied “consistently in California when an
25 action brought by one party creates a fund in which other persons are entitled to share.” (*Id.* at p.
26 110.)

27 The California Supreme Court affirmed in *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th
28 480 that, “when class action litigation establishes a monetary fund for the benefit of the class

members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—convince us the percentage method is a valuable tool that should not be denied our trial courts.” (*Id.* [internal citations omitted].)

2. The Requested Fee Award Is in Line with Typical Cases

According to a leading treatise on class actions, “[n]o general rule can be articulated on what is a reasonable percentage of a common fund. Usually, 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.” (*See* Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 14.03.) Attorneys’ fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also* *Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most cases where 30-50 percent was awarded involved “smaller” settlement funds of under \$10 million].)

Here, Class Counsel equal to one-third (1/3) of the Gross Settlement Amount, which is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly, Plaintiffs respectfully requests that the Court approve the attorneys’ fees as negotiated by the Parties and requested herein.

3. This Matter Involves A “Fee-Shifting” Provision of the Labor Code

Labor Code § 1194 (a) provides for the recovery of “minimum wage or overtime

1 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Under this
2 section, Plaintiffs would be permitted to recover their actual attorneys’ fees, even if those fees were
3 larger than the total Class recovery at the conclusion of this Action should it proceed. The
4 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
5 energy, and resources facing Defendant while at the same time rewarding Class Counsel for their
6 decision to assume risk by taking on this Action. In fact, prosecution of this Action involved
7 significant financial risk for Class Counsel. (Class Counsel Decl., ¶¶ 35-36.) Class Counsel
8 undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*) Once Class
9 Counsel undertook this Action on behalf of the Class, Class Counsel committed to pursue it to its
10 conclusion, placing its fiduciary duty to the Class ahead of all other concerns.

11 **4. The Experience, Reputation and Ability of Class Counsel Support the**
12 **Requested Fee Award**

13 As demonstrated by their past experience in pursuing class actions on behalf of consumers
14 and employees, Class Counsel possess considerable expertise in litigating class actions. (Class
15 Counsel Decl., ¶¶ 37-65.) Class Counsel has been involved as lead counsel or co-counsel in several
16 class actions that resulted in millions in recovery. (*Id.*) Because it is reasonable to compensate
17 class counsel commensurate with their skill, reputation and experience, Class Counsel’s requested
18 fee award is supported here.

19 Class Counsel’s experience in wage and hour class actions was integral in evaluating the
20 strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement.
21 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning
22 the rapidly evolving substantive law (state and federal), as well as the procedural law of class
23 action litigation. Based on these and other factors, Class Counsel has frequently received fee
24 awards of this percentage from the gross recovery for the class. Therefore, the requested Class
25 Counsel Fees are reasonable and fair.

26 **D. The PAGA Allocation is Reasonable**

27 Where settlements negotiate a good faith amount for PAGA penalties and “there is no
28 indication that this amount was the result of self-interest at the expense of other” class members,

1 such amounts are generally considered reasonable. (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr.
2 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133 at *1, 9.) Courts have approved amounts for
3 PAGA penalties in the range of zero to two percent of the total maximum amount of the Settlement.
4 (*Id.* [approving a PAGA payment of 0.3%, or \$1,500]; *see also Jack v. Hartford Fire Ins. Co.* (S.D.
5 Cal. Oct. 13, 2011) 2011 WL 4899942 at *6 [approving a PAGA payment of 0.25%]; *McKenzie v.*
6 *Fed. Express Corp.* (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 at *5 [acknowledging that courts
7 approve PAGA claim settlements in the range of zero to two percent of the total settlement].)

8 Here, the PAGA Penalties is larger than many other PAGA settlement amounts approved
9 by the courts where seemingly nominal amounts were allocated for such claims. (*See, e.g., Zubia*
10 *v. Shamrock Foods Co.* (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431,
11 at *14 [approving a PAGA settlement of 0.1%]; *Hopson, supra*, 2008 WL 3385452, at *1
12 [approving a PAGA settlement of 0.3% or \$1,500]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal.
13 Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *3 [approving a PAGA
14 settlement of 0.27%].) The Parties negotiated the PAGA Penalties in the amount of \$45,000.00 to
15 be paid from the Gross Settlement Amount, with 65% (\$29,250.00) allocated to the LWDA and
16 35% (\$15,750.00) allocated to the Individual PAGA Payments. (Settlement, § 3.2.5.) The PAGA
17 Penalties equate to approximately 15% of the Gross Settlement Amount, which far exceeds
18 amounts that are routinely approved. The Parties negotiated to allocate 15% of the Settlement to
19 PAGA Penalties in good faith and this amount is reasonable considering that the maximum PAGA
20 penalties were estimated at \$351,200.00 (which assumed \$100 per pay period). (Class Counsel
21 Decl., ¶ 22.)

22 **E. The Enhancement Awards to Named Plaintiffs Are Reasonable**

23 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
24 compensate them for the expense or risk they have incurred in conferring a benefit on other
25 members of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval
26 of class action settlement agreements containing enhancements for the class representatives, which
27 are necessary to provide incentive to represent the class, and are appropriate given the benefit the
28

1 class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir.
2 2009) 563 F.3d 948, 958-59.)

3 Service awards are particularly important to plaintiffs in wage and hour cases because they
4 promote the important public policies underlying the wage and hour laws. This strong policy is
5 codified in California Labor Code § 90.5, which provides, “it is the policy of this state to vigorously
6 enforce minimum labor standards in order to ensure employees are not required or permitted to
7 work under substandard unlawful conditions” Nonetheless, the California Supreme Court has
8 noted that “retaliation against employees for asserting statutory rights under the Labor Code is
9 widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.*
10 (2007) 42 Cal.4th 443, 460-61.) In this context, class representatives should be rewarded for
11 assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.*
12 (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

13 Under the Settlement Agreement, subject to the Court’s approval, Defendant agreed to pay
14 the Class Representative Service Payment in the amount of \$5,000.00 to each of the three Plaintiffs
15 (\$15,000.00 total). This amount is also in exchange for Plaintiffs’ general release of all claims
16 against Defendant. Courts routinely approve service awards of \$10,000.00 for plaintiffs
17 represented by counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021)
18 2021 WL 3673845, *3 [“The Court concludes a \$10,000 incentive award is appropriate.”]; *Suarez*
19 *v. Bank of America, National Association* (N.D. Cal., Jan. 11, 2024, No. 18-CV-01202-LB) 2024
20 WL 150721, at *4 [“The court approves awards of \$10,000 for each class representative.”].)

21 A **2006** study examining the average incentive award given to class action plaintiffs from
22 **1993 to 2002** found that the “average award per class representative was \$15,992 and the median
23 award per class representative was \$4,357.” (Eisenberg & Miller, *Incentive Awards to Class Action*
24 *Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1308.) That same study found that
25 plaintiffs in employment discrimination class actions received an average award of \$69,850 and a
26 median award of \$31,081, while named plaintiffs in other employment class actions received an
27 average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1334.) The authors of the
28 study found that higher awards in employment cases reflected the “courts’ wish to make

1 representative plaintiffs whole by compensating them for the high costs of their service to the class,
2 including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

3 Class Counsel represents that Plaintiffs devoted a great deal of time and work assisting
4 Class Counsel litigate the Action, and Plaintiffs communicated with Class Counsel during the
5 mediation and the preparation leading up to mediation. (*See generally* Plaintiffs’ declaration; Class
6 Counsel Decl., ¶¶ 28-32.) The Class Representative Service Awards are reasonable particularly in
7 light of the substantial benefits Plaintiffs generated for all Class Members and as compared to
8 similarly situated plaintiffs in other employment class and representative actions. (*Id.*)

9 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

10 **A. Legal Standard**

11 The proposed Class is well suited for class certification. All of the claims derive from a
12 core set of alleged violations of California’s wage and hour laws and regulations. For the reasons
13 set forth more fully below, for purposes of settlement only, the Class satisfies the prerequisites for
14 certification under Code of Civil Procedure § 382. Section 382 provides: “when the question is one
15 of a common or general interest, of many persons, or when the parties are numerous, and it is
16 impracticable to bring them all before the court, one or more may sue or defend for the benefit of
17 all.” (Code Civ. Proc., § 382). There are three requirements to section 382: Class certification
18 requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community
19 of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e.,
20 that proceeding as a class is *superior* to other methods. (*In re Tobacco II Cases*, (2009) 46
21 Cal.App.4th 298, 313.)

22 The California Supreme Court has looked to Federal Rule of Civil Procedure 23 to further
23 explain that the community-of-interest requirement itself embodies three factors: “(1) predominant
24 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
25 (3) class representatives who can adequately represent the class.” (*Richmond v. Dart Indus., Inc.*
26 (1981) 29 Cal. 3d 462, 470.)

27 California law and policy favor the fullest and most flexible use of the class action device.
28 (*Id.* at pp. 469-73.) Indeed, “Courts long have acknowledged the importance of class actions as a

means to prevent a failure of justice in our judicial system.” (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434.) Any doubt as to the appropriateness of class treatment should be resolved in favor of certification. (*Richmond, supra*, 29 Cal.3d at pp. 473-75.)

B. Plaintiffs Maintain That the Criteria for Class Certification Are Satisfied for Settlement Purposes.

1. The Class is Ascertainable and Numerous

A class is ascertainable if a plaintiff supplies a reasonable means of identifying potential class members and the class is defined in terms of objective characteristics and common facts sufficient to allow a class member to identify himself or herself as having a right to recover based on that description. (*ABM Industries Overtime Cases*, (2017) 19 Cal.App.5th 277, 303.) Courts also consider the size or numerosity of the class when determining whether or not it is ascertainable. (*Id.* at 302).

a) Class Definition

When defining a class, the terminology used must convey “sufficient meaning to enables persons hearing to determine whether they are members of the class” and if the proposed class definition offers an objective way to identify those who will be bound by the results of the litigation. (*Id.* at 302-303.) Courts have routinely certified classes defined using language to that here. (*Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal.App.4th 220, 227; *see also Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1019, defining several subclasses such as employees “who worked one or more work periods in excess of three and a half hours without receiving a paid 10 minute break” and those “who worked ‘off-the-clock’ or without pay.”)

Here, the Class definition (as stated above) is objective as it is limited in scope to a specific time frame (during the Class Period) and is limited to the potential class members’ employment classification (hourly or non-exempt employees). Further, there are common facts that exist here (such as those employees who worked without pay, were not given proper meal or rest periods, etc.) that are encapsulated by the causes of action alleged in the Action. This definition therefore provides sufficiently clear information to allow current and former employees to readily and reasonably determine whether or not they are a putative Class Member in this Action based upon

1 this definition. (*ABM* at 304, stating “As long as the potential class members may be identified
2 without unreasonable expense or time and given notice of the litigation, and the proposed class
3 definition offers an objective means of identifying the persons who will be bound by the results of
4 the litigation, the ascertainability requirement is met.”) Thus, the proposed Class that Plaintiffs
5 seek to represent is easily ascertainable and includes approximately former and current 193
6 employees of Defendant.

7 **b) Numerosity**

8 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
9 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981)
10 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action
11 may be maintained as a class action even where the parties are numerous and it is in fact practicable
12 to join them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a
13 class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries
14 of a trust in an action for removal of the trustees.” (*Id.*, citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d
15 574; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a 35 member class.]) If even as
16 little as 10 persons can constitute a class, then certainly the 193 Class Members here satisfy the
17 numerosity requirement.

18 **2. There is a Well-Defined Community of Interest in the Questions of**
19 **Law and Fact**

20 The community-of-interest requirement itself embodies three factors: “(1) predominant
21 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
22 (3) class representatives who can adequately represent the class.” (*Richmond* at 470.)

23 **a) There are Many Common Issues of Law and Fact Which**
24 **Predominate**

25 The Court should grant conditional Class certification for settlement purposes here on the
26 grounds that questions of law and fact common to all Class and subclass predominate over any
27 individual questions. This inquiry tests whether proposed classes are sufficiently cohesive to
28

warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal.App.3d 605.)

Here, the employment practices at issue are: whether Defendant had legally compliant policies and practices for all hours worked, including overtime wages; whether Defendant had legally compliant policies and practices to provide employees with meal periods; whether Defendant had legally compliant policies and practices authorizing and permitting its employees to take rest periods; whether Defendant reimbursed employees for business expenses; whether payment of wages during employed was timely; whether final payment of wages was untimely and excluded unpaid wages, including meal and rest period premium wages; whether wage statements were consequently non-compliant; whether Defendant failed to pay wages at termination; and whether Defendant failed to pay sick leave. Plaintiffs contend that the factual and legal issues are the same for all the identified Class Members, including Plaintiffs. Further, all Class Members suffered from, and seek redress for, the same alleged injuries.

b) *Plaintiffs' Claims Are Typical of the Claims of the Class*

The typicality requirement does not focus on the individual characteristics or circumstances of the representative plaintiff compared to those of the remainder of the class, but rather upon the typicality of the proposed representative's claims as they relate to the defendant's conduct and activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 ["[t]he only requirements are that common questions of law and fact predominate and that the class representative be similarly situated" vis-à-vis the class.].) A representative plaintiff's claims are typical of the class if they arise from the same event, practice or course of conduct, and if the claims rest on the same legal theories. (*Id.*) That is precisely the case here. Plaintiffs are a former employee of Defendant; as such, Plaintiffs allege that Plaintiffs were subject to the same policies and practices as other similarly situated employees. Thus, Plaintiffs' claims arise out of the same practices of Defendant and rest on the same legal theories as those of the Class. Therefore, Plaintiffs can easily meet the typicality requirement in favor of certification.

1 c) ***Plaintiffs and Class Counsel Meet the Adequacy Requirement***

2 The adequacy of representation requirements is met by fulfilling two conditions: first, a
3 named plaintiff must be represented by counsel qualified to conduct the pending litigation; second,
4 a named plaintiff's interests cannot be antagonistic to those of the class. (*McGhee v. Bank of*
5 *America* (1976) 60 Cal.App.3d 442, 451.)

6 All of these requirements are met here for settlement purposes. Plaintiffs retained Class
7 Counsel, whom have extensive experience in prosecuting complex class actions, including similar
8 class actions that previously settled. (Class Counsel Decl., ¶¶ 37-66.) Class Counsel
9 unquestionably is "qualified, experienced and generally able to conduct the proposed litigation."
10 (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 875.) In addition, Plaintiffs have no conflicts, and
11 Plaintiffs have, with Class Counsel, litigated this Action and diligently reviewed the Settlement
12 terms, showing their dedication. Plaintiffs' willingness to serve as Class Representatives
13 demonstrates Plaintiffs' serious commitment to bringing about the best results possible for the
14 Class, thereby demonstrating Plaintiffs' interests are aligned with those of the Class and no conflict
15 exists. (*McGhee, supra*, 60 Cal.App.3d at p. 451.)

16 **3. A Class Action is Superior to a Multiplicity of Litigation**

17 Finally, in making its Class certification decision, the Court must determine that a class
18 action would be superior to alternative means for the fair and efficient adjudication of the litigation.
19 By consolidating many potential individual actions into a single proceeding, this Court's use of the
20 class action device enables it to manage this litigation in a manner that serves the economics of
21 time, effort and expense for the litigants and the judicial system. Absent class treatment, similarly-
22 situated employees with small but nevertheless meritorious claims for damages would, as a
23 practical matter, have no means of redress because of the time, effort and expense required to
24 prosecute individual actions. (*Gentry, supra*, 42 Cal.4th at pp. 457-62; *Leyva v. Medline Ind.* (9th
25 Cir. 2013) 716 F.3d 510, 515.) Moreover, in the context of settlement, the superiority concerns
26 are essentially non-existent.

27 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND**

28 **A. The Proposed Class Notice Plan Satisfies Due Process**

1 Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
2 Rule 3.766 (e), (f).) California law vests the Court with broad discretion in fashioning an
3 appropriate notice program. (*Cartt v. Super Ct.* (1975) 50 Cal.App.3d 960, 973-74.) There is no
4 statutory or due process requirement that all class members receive actual notice, but in this Action,
5 the Class Notice will be disseminated through direct U.S. first class mail to the last known address
6 for each Class Member. As the Court of Appeals has explained, “[t]he notice given should have a
7 reasonable chance of reaching a substantial percentage of the class members” (*Id.* at p. 974.)
8 In this Action the Class Notice will be provided by direct mailing, which is the best possible form
9 of notice as it provides the most reasonable chance of reaching a substantial percentage of the
10 Class.

11 **B. The Class Notice is Accurate and Informative**

12 The proposed Class Notice is informative. It informs the Class Members of the terms of the
13 Settlement and their right to be excluded from the Settlement. If there are Class Members who
14 wish to object to this proposed Settlement, they will have the opportunity to file their objections
15 and be heard at the Final Approval Hearing.

16 The Class Notice also fulfills the requirement of neutrality in class notices. (Conte &
17 Newberg, *Newberg on Class Actions* (3rd Ed.) § 8.39.) It summarizes the proceedings to date
18 and the terms and conditions of the Settlement Agreement, in an informative and coherent
19 manner. It makes clear that the Settlement Agreement does not constitute an admission of
20 liability by the Defendant, who denies all liability, and it recognizes that this Court has not ruled
21 on the merits of the Action. It also states that the final settlement approval decision has yet to
22 be made. The Class Notice thus complies with the standards of fairness, completeness, and
23 neutrality required of a combined settlement-certification class notice.

24 **C. The Proposed Class Notice of Settlement Should Be Approved**

25 The proposed Class Notice, in the form attached to the Settlement Agreement, should be
26 approved for dissemination to the Class. The Class Notice informs the Class of the terms of the
27 Settlement and of their rights to be excluded from the Settlement. And if there are Class Members
28 who wish to object to the Settlement, they will have the opportunity to file their objections and be

1 heard at the final approval hearing. Accordingly, the proposed Class Notice meets all the
2 requirements of Rule 3.769(f) of the California Rules of Court and should be approved.

3 **VI. CONCLUSION**

4 For the foregoing reasons, Plaintiffs respectfully requests that the Court grant preliminary
5 approval of the proposed Settlement and set a final approval hearing on October 13, 2026.

6
7
8 Dated: March 26, 2026

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

9 By: _____

10 Tyler J. Woods
11 Alan Wilcox
12 Lucy Nguyen
13 Conor Gomez

14 *Attorneys for Plaintiffs*
15
16
17
18
19
20
21
22
23
24
25
26
27
28