

John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
William M. Pao (SBN 219846)
william.pao@wilshirelawfirm.com
Matthew R. Baker (SBN 326238)
matthew.baker@wilshirelawfirm.com
Giancarlo A. Recinos (SBN 282836)
giancarlo.recinos@wilshirelawfirm.com
Courtney M. Miller (SBN 327850)
courtney.miller@wilshirelawfirm.com
WILSHIRE LAW FIRM, PLC
660 S. Figueroa Street, Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ABIGAIL SALAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

WELLNESS EATERY CORONADO,
LLC, a Delaware limited liability company;
WELLNESS EATERY BEVERLY HILLS,
LLC, a Delaware limited liability company;
WELLNESS EATERY BRENTWOOD,
LLC, a Delaware limited liability company;
WELLNESS EATERY CARLSBAD, LLC, a
Delaware limited liability company;
WELLNESS EATERY CARMEL VALLEY,
LLC, a Delaware limited liability company;
WELLNESS EATERY LA JOLLA, LLC, a
Delaware limited liability company;
WELLNESS EATERY LITTLE ITALY,
LLC, a Delaware limited liability company;
WELLNESS EATERY NEWPORT BEACH,
LLC, a Delaware limited liability company;
and DOES 1 through 10, inclusive,

Defendants.

Lead Case No.: 25CU010532C
(Consolidated with Case No. 25CU004356C)

*[Assigned for All Purposes to the Honorable
Loren G. Freestone, Dept.C-64]*

**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: December 18, 2026

Time: 10:30 a.m.

Dept.: C-64

Action Filed: August 30, 2024

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

2 **PLEASE TAKE NOTICE** that on December 18, 2026, at 10:30 a.m., or as soon
3 thereafter as the matter may be heard in Department C-64 of the Superior Court of California,
4 County of San Diego, located at Hall of Justice Fourth Floor, 330 W. Broadway, San Diego,
5 California 92101, Plaintiff Abigail Salas ("Plaintiff") will and hereby does move this Court for
6 an Order:

- 7 1. Granting preliminary approval of the proposed Class Action and PAGA Settlement
8 Agreement ("Settlement");
9 2. Conditionally certifying the proposed Class for settlement purposes only;
10 3. Appointing Plaintiff as the Class Representative;
11 4. Appointing Wilshire Law Firm, PLC as Class Counsel;
12 5. Appointing Xpand Legal Consulting, LLC as the Settlement Administrator; and
13 6. Setting a final approval hearing date.

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

19 This Motion is based on this Notice of Motion, the accompanying Memorandum of
20 Points and Authorities, the Declaration of John G. Yslas, the Declaration of Abigail Salas and
21 on all records and documents on file, together with such oral and documentary evidence that
22 may be presented at the hearing on this matter.

23 Respectfully submitted,

24 Dated: August 26, 2026

WILSHIRE LAW FIRM, PLC

25 By: /s/ Courtney M. Miller

26 Courtney M. Miller
27 Attorneys for Plaintiff
28

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiff seeks preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), against Defendants Wellness Eatery Coronado, LLC, Wellness Eatery Beverly Hills, LLC, Wellness Eatery Brentwood, LLC, Wellness Eatery Carlsbad, LLC, Wellness Eatery Carmel Valley, LLC, Wellness Eatery La Jolla, LLC, Wellness Eatery Little Italy, LLC, and Wellness Eatery Newport Beach, LLC (collectively “Defendants”). The proposed Class is defined as all former hourly-paid or non-exempt employees of Defendants who did not sign arbitration agreements during their employment with Defendants and who were employed by Defendants within the State of California (“Class Members”) for at least one week during the period from August 30, 2020, to September 5, 2024 (“Class Period”). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of \$498,000.00, which will be distributed to approximately 520 Class Members on a pro rata basis according to the total workweeks worked by each Class Member during the Class Period;
2. Attorneys’ fees of up to one third (1/3) of the Gross Settlement Amount (currently \$166,000.00 and up to \$25,000.00 in reimbursement of litigation costs to Plaintiff’s Counsel;
3. A Class Representative Service Payment of up to \$15,000.00 to Plaintiff;
4. Costs of settlement administration of up to \$7,000.00; and
5. Allocation of \$24,900.00 to PAGA penalties, sixty-five percent (65%) of which (\$16,185.00) will be paid to the Labor and Workforce Development Agency (“LWDA”), and thirty-five percent (35%) of which (\$8,715.00) will be paid to all current and former hourly-paid or non-exempt employees of Defendants who were employed by Defendants within the State of California (“Aggrieved Employees”) for at least one (1) week during the period from November 20, 2023, to July 12, 2026 (“PAGA Period”).

1 The Settlement meets all criteria for preliminary approval and falls within the range of
2 reasonableness given the risks and expenses of further litigation. The Settlement was reached
3 through informed, arm's length bargaining between experienced attorneys with the assistance of
4 an experienced neutral. As such, Plaintiff requests that the Court grant preliminary approval of the
5 Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the
6 Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Xpand Legal
7 Consulting, LLC ("Xpand") as the Settlement Administrator, authorize the Settlement
8 Administrator to administer notice of the Settlement to the Class, and set a final approval hearing
9 date.

10 **II. PROCEDURAL HISTORY**

11 On August 30, 2024, Plaintiff filed this putative class action against Defendants alleging:
12 (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure
13 to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay
14 final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to
15 indemnify employees for expenditures; (8) failure to produce requested employment records; and
16 (9) unfair business practices ("Class Action"). Declaration of John G. Yslas in Support of
17 Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("MPA")
18 ("Yslas Decl.") at ¶ 3.

19 On November 19, 2024, Plaintiff provided written notice to the LWDA and Defendants of
20 the specific provisions of the Labor Code alleged to have been violated, including the facts and
21 theories in support. Yslas Decl. at ¶ 4, Exhibit 1. The LWDA did not notify Plaintiff that it intended
22 to investigate within 65 days of this written notice. Yslas Decl. at ¶ 4. Therefore, on January 24,
23 2025, Plaintiff filed a separate action against Defendants in the Superior Court of California,
24 County of San Diego, for civil penalties under PAGA, Case No. 25CU004356C (the "PAGA
25 Action") *Id.* On April 14, 2026, the Court deemed the Class Action and PAGA Action related and
26 designated the Class Action as the lead case. *Id.* On June 22, 2026, the Court consolidated the
27 Class Action and PAGA Action with the Class Action designated the lead case. Yslas Decl. ¶ 5.

28 On May 12, 2026, the Parties participated in a private mediation with experienced class

1 action and PAGA mediator Gig Kyriacou. *Id.* at ¶ 6. The mediator made a proposal, which was
2 accepted by the Parties. *Id.* The Parties negotiated the terms of the Settlement over the next month,
3 which was finalized in June of 2026. *Id.* at ¶ 7, Exhibit 2 (“Settlement Agreement”). On August
4 26, 2026, Plaintiff submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 8, Exhibit
5 3.

6 **III. SUMMARY OF THE SETTLEMENT TERMS**

7 **A. Terms of the Proposed Settlement**

8 The Parties have agreed to settle the claims alleged in this case and the related PAGA
9 Action for a Gross Settlement Amount of \$498,000.00. Settlement Agreement at § 3.1. Subject to
10 Court approval, the following payments will be deducted from the Gross Settlement Amount: (1)
11 a Class Representative Service Payment of up to \$15,000.00 to Plaintiff; (2) attorneys’ fees of up
12 to one third (1/3) of the Gross Settlement Amount (currently \$166,000.00) and reimbursement of
13 litigation costs of up to \$25,000.00 to Plaintiff’s Counsel; (3) costs of settlement administration of
14 up to \$7,000.00 to Xpand; (4) Individual Class Payments to Class Members; and (5) PAGA
15 Penalties in the amount of \$24,900.00, which will be allocated 65% to the LWDA (\$16,185.00)
16 and 35% to Aggrieved Employees (\$8,715.00). *Id.* at § 3.2, *et seq.*¹ After all requested deductions
17 are made, the remaining Net Settlement Amount is currently estimated to be \$260,100.00. Yslas
18 Decl. at ¶ 21.

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

25 ///

26 _____
27 ¹ Paragraph 3.2.3 of the Settlement Agreement contains a scrivener's error in the spelled-
28 out amount sought for the Administrator Costs Payment. It should have read “Seven Thousand
Dollars and No Cents.”

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

5 Any deductions not approved by the Court will be retained by the Settlement Administrator
6 in the Net Settlement Amount. *Id.* at §§ 3.2.1, 3.2.2, 3.2.3, 3.2.5.2. Funds from any uncashed checks
7 will be transmitted by the Settlement Administrator to the California Controller's Unclaimed
8 Property Fund in the name of the Class Member. *Id.* at § 4.5.3. None of the Gross Settlement
9 Amount will revert to Defendant. *Id.* at § 3.1.

10 **B. Proposed Settlement Administration**

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

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

28 ///

1 **C. Proposed Release**

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

5 Released Class Claims:

6 All the Participating Class Members, on behalf of themselves and their former and
7 present representatives, agents, attorneys, heirs, administrators, successors, and
8 assigns release the Released Parties from all the claims that were alleged, or could
9 have been alleged, based on the facts contained in the Complaints and that occurred
10 during the Class Period (“Released Class Claims”). All Participating Class
11 Members will release all claims, rights, demands, liabilities, and causes of action,
12 alleged or which could have reasonably been alleged based on the facts alleged in
13 the operative Complaint, including but not limited to: (1) failure to pay minimum
14 and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197
15 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§
16 510, 1194, and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor
17 Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant
18 to Cal. Labor Code §§ 226.7); (5) failure to timely pay final wages at termination
19 (pursuant to Cal. Labor Code §§ 201-203); (6) failure to provide accurate itemized
20 wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to indemnify
21 employees for expenditures (pursuant to Cal. Labor Code §§ 2802); (8) failure to
22 produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432,
23 and 1198.5); and (9) unfair business practices (pursuant to Cal. Bus. & Prof. Code
24 §§ 17200, et seq.). The enumeration of these specific claims shall neither enlarge
25 nor narrow the scope of res judicata based on the claims that were asserted in the
26 Action or could have been asserted in the Action based on the facts and
27 circumstances alleged in the Complaint. The Released Class Claims are those that
28 accrued during the Class Period. Each Participating Class Member acknowledges
that he or she may discover facts or law different from, or in addition to, the facts
or law that he or she now knows or believes to be true but agrees, nonetheless, that
the Released Class Claims shall be and remain effective in all respects,
notwithstanding such different or additional facts or the discovery of them.

- 23 a. The Released Class Claims include all claims arising under the California
24 Labor Code (including, but not limited to, sections 200, 201, 202, 203, 204,
25 206, 210, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 229, 246,
26 510, 511, 512, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
27 1197.1, 1197.2, 1198, 2698 et seq., 2699 et seq., 2800, and 2802); the Wage
28 Orders of the California Industrial Welfare Commission; California Business
and Professions Code section 17200, et seq.; and the Fair Labor Standards Act,
29 U.S.C. section 201 et seq.
- 29 b. Except as set forth in Section 5.3, the Participating Class Members do not
release any other claims, including claims for vested benefits, wrongful
termination, violation of the Fair Employment and Housing Act, unemployment

insurance, disability, social security, or workers' compensation or claims based on facts occurring outside the Class Period.

Settlement Agreement at § 5.2.

Released PAGA Claims:

All Aggrieved Employees, are deemed to release, on behalf of themselves and their former and present representatives, agents, attorneys, heirs, administrators, successors, assigns, and the LWDA, the Released Parties from all the claims for the PAGA penalties that were alleged, or could have been alleged, based on the facts stated in the PAGA complaint and PAGA Notice and that occurred during the PAGA Period ("Released PAGA Claims").

- a. The Released PAGA Claims include all claims for: failure to pay all wages, including failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; failure to track and pay sick leave; the calculation of the regular rate of pay (including as it relates to overtime, meal and rest break premiums, and sick leave); missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to reimburse business expenses; failure to pay wages timely during employment; failure to pay all wages due upon separation; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs.
- b. The Released PAGA Claims include all penalties arising under the California Labor Code (including alleged violations of Labor Code sections 200, 201, 202, 203, 204, 206, 210, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 229, 246, 510, 511, 512, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 et seq., 2699 et seq., 2800, and 2802).

Settlement Agreement at § 5.3.

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

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

A. Provisional Certification of the Class is Appropriate

Class certification is appropriate when there is: (1) an ascertainable and sufficiently numerous class; (2) a well-defined community of interest among class members; and (3) substantial

benefits from certification that render proceeding as a class superior to the alternatives. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1021 (2012). Although courts still need to review and consider each element for certification, a lesser standard can be used to provisionally certify a settlement class. *Global Minerals & Metals Corp. v. Superior Court*, 113 Cal.App.4th 836, 859 (2003).

1. The Proposed Class is Numerous and Ascertainable

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

The Class here consists of former hourly-paid or non-exempt employees of Defendants who did not sign arbitration agreements during their employment with Defendants and who were employed by Defendants within the State of California for at least one (1) week during the Class Period. See Settlement Agreement at § 1.5, 1.13. The Class is also readily ascertainable from Defendants’ business records, because all Class Members are or were employees of Defendants. *Id.* Defendants’ records show there are approximately 520 Class Members, making joinder of all Class Members impracticable. Yslas Decl. at ¶ 10.

2. A Well-Defined Community of Interest Exists

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

a. Common Questions Predominate

In determining whether common issues “predominate,” courts consider both plaintiff’s

1 legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1,
2 28-29 (2014). The “predominate common questions” factor does not require that all class members
3 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
4 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
5 permit class-wide assessment, and whether individual variations in proof on those issues are
6 manageable. *Id.*

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

19 *b. Plaintiff is Typical of the Class*

20 Typicality does not require that the representative plaintiff’s claims and those of the class
21 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
22 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th
23 260 (2018). Typicality does not require that a plaintiff’s claims be identical to those of other class
24 members, only that their claims and the defenses applicable to them are sufficiently similar to those
25 of other class members that a named plaintiff is able to adequately represent the class and focus on
26 common issues. *Medrazo v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

27 Plaintiff has alleged that she and Class Members were employed by the same Defendants
28 and injured by Defendants’ common wage and hour policies and practices, including Defendants’

scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Yslas Decl. at ¶ 11. Through informal discovery, Plaintiff confirmed that these challenged policies and practices applied to Plaintiff and Class Members alike. *See id.* at ¶ 9. Therefore, Plaintiff’s claims and Class Members’ claims arise from the same challenged employment policies and practices and are based on the same legal theories.

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

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

Plaintiff’s interests are coextensive with Class Members’ interests. Declaration of Abigail Salas in Support of Plaintiff’s MPA (“Salas Decl.”) at ¶ 6. Plaintiff has demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit, providing information to her attorneys, meeting with her attorneys regarding the claims, answering discovery, having her deposition taken, making herself available the day of mediation to answer questions, and reviewing the proposed Settlement. *Id.* at ¶ 11.

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

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

Courts have held that class treatment of wage and hour claims is clearly “superior to the other available methods for the fair and efficient adjudication of the controversy.” *Dean Witter Reynolds, Inc. v. Superior Court*, 211 Cal.App.3d 758, 772-773 (1989). This is so because “[p]ublic policy has long favored the ‘full and prompt payment of wages due an employee.’” *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, a class action is superior to a multitude of individual lawsuits. Given the size and amount of each Class Member’s claim, Class

Members have little incentive to litigate their claims on an individual basis because the out-of-pocket expenses and personal commitment necessary to litigate each claim likely outweigh any potential recovery. Yslas Decl. at ¶ 10. Therefore, a class action is the superior method for seeking relief.

B. The Settlement Meets the Standards for Preliminary Approval

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

1. The Settlement is Entitled to a Presumption of Fairness

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

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

Courts have recognized that the involvement of a respected mediator provides a high degree of assurance that the settlement is the result of arm’s length bargaining. *See Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 52-53 (2008). The Settlement in this matter was the product of a full-day mediation session with a respected mediator. Yslas Decl. at ¶ 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. Yslas Decl. at ¶ 9. Plaintiff's Counsel assessed the value to the class claims using the data and documents that Defendants produced in informal discovery, including the number of Class Members, the number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, Defendants' written wage-and-hour policies, documents concerning Plaintiff, and a representative sampling of time and pay records. *Id.*

c. Plaintiff's Counsel is Experienced in Similar Litigation

Plaintiff is represented by Wilshire Law Firm, PLC. Yslas Decl. at ¶ 1. Plaintiff's Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 22-42 Plaintiff's Counsel has been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

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

A settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1991). Although the exposure Plaintiff's Counsel calculated is substantial, the various risks at succeeding at class certification and through trial affected the valuation of the claims for settlement purposes. Yslas Decl. at ¶ 12.

Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage claims were based on the allegation that Defendants required Class Members to perform work duties while off the clock, without compensation. Yslas Decl. at ¶ 13. For example, Plaintiff alleged that Defendants required her and other Class Members to continue working after they had clocked out for the day. *Id.* For purposes of calculating Defendants' liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel assumed that all unpaid worktime should have been paid at the overtime rate of pay and conservatively estimated that Defendants are liable for one (1) hour of unpaid worktime per workweek. *Id.* This results in potential exposure for this

claim of approximately \$388,770.90 (13,972 workweeks x \$18.55 average hourly rate of pay x 1 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class Member testimony and would not be evidenced in Defendants' time and payroll records, the risk of succeeding at class certification and trial was substantial. Accordingly, Plaintiff's Counsel applied a risk discount based on a 40% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$62,203.34 (\$388,770.90 x 40% x 40%). *Id.*

Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant meal periods or pay meal period premiums in lieu thereof. Yslas Decl. at ¶ 14. For example, Plaintiff alleged that Defendants often failed to provide her and other Class Members with timely meal periods due to understaffing and the coverage issues that created. *Id.* Furthermore, Plaintiff alleged that her and other Class Members' meal periods were often interrupted by supervisors and coworkers with work-related questions, such that they were never fully relieved of their duties during those meal periods. *Id.* Additionally, Plaintiff's Counsel's expert consultant determined there was a 51.1% meal period violation rate from the sampling of Defendants' time and payroll records, where meal periods were short, late, or missed. *Id.* Therefore, potential liability for the meal period claim is approximately \$447,705.01 (47,231 shifts over 5 hours x \$18.55 average hourly rate x 51.1% 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 51.1% 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 \$89,541.00 (\$447,705.01 x 50% x 40%). *Id.*

Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. Yslas Decl. at ¶ 15. For example, Plaintiff alleged that Defendants failed to provide her and other Class Members with their second rest period due to understaffing and the coverage issues that created. *Id.* Defendants recorded employee rest periods for a time and the data produced by

1 Defendants in advance of mediation revealed a 94.4% violation for rest periods. *Id.* As such,
2 Plaintiff's Counsel applied a 94.4% violation rate to all qualifying shifts during the Class Period.
3 *Id.* Therefore, Defendants' potential liability for the rest period claim is approximately \$883,370.00
4 (50,446 shifts of 3.5 hours or longer x \$18.55 average hourly rate x 94.4% violation rate). However,
5 Plaintiff's Counsel discounted this figure to account for the difficulty of certifying and proving
6 rest period claims, particularly because rest periods do not have to be recorded, and to account for
7 the possibility of Class Members voluntarily choosing to forego a rest period. *Id.* Because this
8 claim would have relied exclusively on Class Member testimony, Plaintiff's Counsel discounted
9 this claim based on a 30% chance of succeeding at class certification and a 30% chance of
10 succeeding at trial, yielding a realistic damage estimate of approximately \$79,503.30 (\$883,370.00
11 x 30% x 30%). *Id.*

12 Reimbursements: Plaintiff's reimbursement claim was based on the allegation that
13 Defendants failed to indemnify Class Members for expenses incurred as a direct result of
14 performing their job duties for Defendants, such as mandatory use of personal cell phones, laptops,
15 and personal data and wi-fi for work purposes. Yslas Decl. at ¶ 16. For purposes of calculating
16 Defendants' liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel
17 estimated that Defendants were liable to each Class Member for \$7.50 per workweek in
18 unreimbursed expenses, for a total amount of approximately \$104,790.00 (\$7.50 x 13,972
19 workweeks). *Id.* However, Defendants argued that these expenses were not required by
20 Defendants, and that it could not have known that these expenses were being incurred. *Id.*
21 Accordingly, Plaintiff's Counsel discounted this claim based on a 30% chance of succeeding at
22 class certification and a 30% chance of succeeding at trial, yielding a realistic damage estimate of
23 approximately \$9,431.10 (\$104,790.00 x 30% x 30%). *Id.*

24 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
25 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
26 approximately \$1,719,845.91. Yslas Decl. at ¶ 17. However, after factoring in the risk and
27 uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's
28 realistic estimated recovery for these non-penalty wage claims is approximately \$231,247.64. *Id.*

1 Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages
2 owed, Defendants owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 18.
3 With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated
4 that Defendants' realistic potential liability is approximately \$126,341.74. *Id.* Defendants'
5 maximum potential liability for waiting time penalties is approximately \$1,647,295.65 (429
6 employees x \$18.55 average hourly rate of pay x 6.9 hours/day x 30 days) based on approximately
7 429 formerly employed Class Members during the 3-year statute of limitations period and an
8 average shift length of 6.9 hours. *Id.* Defendants' maximum potential liability for inaccurate wage
9 statements is approximately \$458,400.00 ([246 employees x 1 initial violation/employee x \$50 for
10 an initial violation] + [(4,707 pay periods – 246 initial violations) x \$100 for each subsequent
11 violation]) based on approximately 246 Class Members who worked during the 1-year statute of
12 limitations period and approximately 4,707 pay periods in that statutory timeframe. *Id.* In light of
13 the foregoing, Plaintiff's Counsel believes that it would be unrealistic to expect the Court to award
14 the full \$2,105,695.65 in statutory penalties given Defendants' defenses, the contested nature of
15 Plaintiff's claims, the challenges of establishing willfulness as applicable, and the discretionary
16 nature of penalties. *Id.* Considering that the underlying wage claims are realistically estimated to
17 be approximately \$231,247.64, such a disproportionate award would also raise due process
18 concerns. *Id.* As such, Plaintiff's counsel discounted these figures to account for the risk and
19 uncertainty of obtaining class certification and prevailing at trial, resulting in a realistic evaluation
20 of approximately \$98,837.74 for waiting time penalty claims (\$1,647,295.65 x 30% x 20%), and
21 approximately \$27,504.00 for wage statement penalty claims (\$458,400.00 x 30% x 20%), or
22 approximately \$126,341.74 total for statutory penalties. *Id.*

23 PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendants' potential
24 exposure could potentially reach \$1,381,800.00 assuming the initial \$100 penalty would apply for
25 each of the 13,818 pay periods in the PAGA Period. Yslas Decl. at ¶ 19. However, even assuming
26 success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a
27 variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary
28 and oppressive, or confiscatory. *Id.* As such, Plaintiff's counsel discounted this figure to account

1 for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately
2 \$138,180.00 for PAGA penalties (\$1,381,800.00 x 10%). *Id.* The settlement allocates \$24,900.00
3 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 5% of the
4 Gross Settlement Amount and approximately 18% of the realistic maximum damages for PAGA
5 penalties (\$24,900.00/ \$138,180.00). *Id.*

6 Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum
7 recovery for all claims, including penalties, would be approximately \$505,200.48. Yslas Decl. at
8 ¶ 20. This means that the gross settlement figure represents approximately 98.6% of the realistic
9 maximum recovery (\$498,000.00/ \$505,200.48). *Id.* Considering the risk and uncertainty of
10 prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
11 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
12 avoid the risk of an unfavorable judgment. *Id.*

13 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
14 class settlement payments is currently estimated to be \$260,100.00 for approximately 520 Class
15 Members. Yslas Decl. at ¶ 21. As a result, each Settlement Class Member would be eligible to
16 receive an average net benefit of approximately \$500.19. *Id.* Based on the estimated Net Settlement
17 Amount available for individual class payments and there being approximately 13,972 workweeks
18 in the Class Period, the estimated weekly valuation for Individual Class Payments is \$18.62
19 (\$260,100.00/ 13,972 workweeks). *Id.*

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

21 Plaintiff seeks a Class Representative Service Payment of up to \$15,000.00 for accepting
22 the responsibilities of representing the interests of the Class and potential costs that were not borne
23 by any other Class Member. Settlement Agreement at § 3.2.1. A named plaintiff is eligible for
24 payment that reasonably compensates the plaintiff for undertaking and fulfilling a fiduciary duty
25 to represent absent class members. *See Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380,
26 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004).

27 Throughout this case, Plaintiff assisted counsel in providing information necessary to
28 prosecute the claims, meeting with counsel regarding the claims, maintaining regular contact with

counsel, answering discovery, having her deposition taken, making herself available the day of mediation to answer questions, and reviewing the Settlement to ensure it was fair to the Class. Salas Decl. at ¶ 11. No action would likely have been taken by Class Members individually and no compensation would have been recovered for them, but for Plaintiff's services on behalf of the Class. By actively pursuing this action, Plaintiff furthered the California public policy goal of enforcing the State's wage-and-hour laws. *See Sav-On*, 34 Cal.4th at 340. The requested Class Representative Service Payment is reasonable and should be preliminarily approved. Plaintiff has provided a declaration regarding her work performed to date and will provide additional information as requested or required by the Court at final approval.

D. The Requested Attorneys' Fees and Costs Are Reasonable

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

Plaintiff seeks appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting this matter with no guarantee of payment. Yslas Decl. at ¶ 22. Plaintiff's Counsel seeks preliminary approval for up to one third (1/3) of the Gross Settlement Amount in attorneys' fees, currently estimated to be \$166,000.00 and up to \$25,000.00 in reimbursement of litigation costs. Given the work performed in this matter, the extensive information exchange, and the substantial recovery obtained on behalf of the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs.

E. The Administration Costs Are Reasonable

The Parties have agreed upon using Xpand Legal Consulting, LLC ("Xpand") to administer this Settlement. Settlement Agreement at §§ 1.2, 7.1. Plaintiff seeks preliminary approval of

1 \$7,000.00 for Xpand to administer this Settlement pursuant to Xpand's will-not-exceed bid. *See*
2 Yslas Decl. at ¶ 39, Exhibit 4. The services covered by this payment are extensive and necessary
3 to carry out the Settlement administration.

4 **V. CONCLUSION**

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

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12 Dated: August 26, 2026

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

13
14 By: /s/ Courtney M. Miller

15 Courtney M. Miller
16 Attorneys for Plaintiff
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