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

FRANCISCO RODRIGUEZ-RUBIO, JR.,
individually, on behalf of all others
similarly situated, and on behalf of the State
of California and other aggrieved persons,

Plaintiff,

v.

TORIN INC., a California corporation;
TORIN JACKS, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVSB2426421

*[Assigned for All Purposes to the Honorable
Donald Alvarez, Dept. S23]*

**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 16, 2026

Time: 9:00 a.m.

Dept.: S23

Action Filed: August 27, 2024

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

2 **PLEASE TAKE NOTICE** that on December 16, 2026, at 9:00 a.m., or as soon thereafter
3 as the matter may be heard in Department S23 of the Superior Court of California, County of
4 San Bernardino, located at 247 West Third Street, San Bernardino, CA 92415, Plaintiff
5 Francisco Rodriguez-Rubio, Jr. ("Plaintiff") will and hereby does move this Court for an Order:

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

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

18 This Motion is based on this Notice of Motion, the accompanying Memorandum of
19 Points and Authorities ("MPA"), the Declaration of John G. Yslas, the Declaration of Francisco
20 Rodriguez-Rubio, Jr., and on all records and documents on file, together with such oral and
21 documentary evidence that may be presented at the hearing on this matter.

22
23 Respectfully submitted,

24 Dated: September 30, 2026

WILSHIRE LAW FIRM, PLC

25 By: 

26 John G. Yslas
27 Arrash T. Fattahi
28 Arman A. Salehi
Trenten N. Bilodeaux
Attorneys for Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq.*,
4 Plaintiff seeks preliminary approval of a class action settlement of wage and hour claims, including
5 representative claims brought under the Labor Code Private Attorneys General Act of 2004
6 (“PAGA”), against Defendants Torin, Inc. and Torin Jacks, Inc. (collectively, the “Defendants”).
7 The proposed Class is defined as all persons who worked for Defendants in California as an hourly-
8 paid or non-exempt employee (“Class Members”) at any time during the period from August 27,
9 2020, through September 9, 2025 (“Class Period”). The main terms of the Settlement are as follows:

- 10 1. A Gross Settlement Amount of \$138,000.00, from which the Net Settlement
11 Amount will be distributed to approximately 29 Class Members on a pro rata basis
12 according to the total workweeks worked by each Class Member during the Class
13 Period;
- 14 2. Attorneys’ fees of up to one-third (1/3) of the Gross Settlement Amount (currently
15 \$46,000.00) and up to \$15,000.00 in reimbursement of litigation costs to Plaintiff’s
16 Counsel;
- 17 3. A Class Representative Service Payment of up to \$10,000.00 to Plaintiff;
- 18 4. Costs of settlement administration of up to \$3,950.00; and
- 19 5. Allocation of \$6,500.00 to PAGA penalties, sixty-five percent (65%) of which
20 (\$4,225.00) will be paid to the Labor and Workforce Development Agency
21 (“LWDA”), and thirty-five percent (35%) of which (\$2,275.00) will be paid to all
22 persons who worked for Defendants in California as an hourly-paid or non-exempt
23 employee (“Aggrieved Employees”) at any time during the period from November
24 19, 2023, through September 9, 2025 (“PAGA Period”).

25 The Settlement meets all criteria for preliminary approval and falls within the range of
26 reasonableness given the risks and expenses of further litigation. The Settlement was reached
27 through informed, arm’s length bargaining between experienced attorneys with the assistance of
28 an experienced neutral. As such, Plaintiff requests that the Court grant preliminary approval of the

Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Phoenix Class Action Administrators, Inc. ("Phoenix") as the Administrator, authorize the Administrator to administer notice of the Settlement to the Class, and set a final approval hearing date.

II. PROCEDURAL HISTORY

On August 27, 2024, Plaintiff filed this putative class action against Defendants alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested employment records; and (9) unfair business practices (the "Class Action"). Declaration of John G. Yslas in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Yslas Decl.") at ¶ 3.

1. On November 19, 2024, Plaintiff provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support. Yslas Decl. at ¶ 4, Exhibit 1. The LWDA did not notify Plaintiff that it intended to investigate within 65 days of this written notice. *Id.* Therefore, on January 24, 2025, Plaintiff filed a separate action in the Superior Court of California, County of San Bernardino, for civil penalties under PAGA, Case No. CIVSB2502569 (the "PAGA Action"). *Id.* On June 25, 2026, Plaintiff filed a First Amended Complaint in this Class Action adding a cause of action for civil penalties under PAGA (the "Operative Complaint"). *Id.* at ¶ 5. On July 14, 2026, the Court dismissed the PAGA Action without prejudice. *Id.*

On June 11, 2025, the Parties participated in a private mediation with Hon. Lisa Cole (Ret.). *Id.* at ¶ 6. The mediator made a proposal, which was accepted by the Parties. *Id.* The Parties negotiated the terms of the Settlement over the next several months, which was finalized on August 21, 2025. *Id.* at ¶ 7, Exhibit 2. On September 28, 2026, Plaintiff submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 8, Exhibit 3.

///

III. SUMMARY OF THE SETTLEMENT TERMS

A. Terms of the Proposed Settlement

The Parties have agreed to settle the claims alleged in this case for a Gross Settlement Amount of \$138,000.00. Settlement Agreement at § 3.1. Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) a Class Representative Service Payment of up to \$10,000.00 to Plaintiff; (2) attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount (currently \$46,000.00) and reimbursement of litigation costs of up to \$15,000.00 to Plaintiff's Counsel; (3) costs of settlement administration of up to \$3,950.00 to Phoenix; (4) Individual Class Payments to Class Members; and (5) PAGA Penalties in the amount of \$6,500.00, which will be allocated 65% to the LWDA (\$4,225.00) and 35% to Aggrieved Employees (\$2,275.00). *Id.* at § 3.2 *et seq.* After all requested deductions are made, the remaining Net Settlement Amount is currently estimated to be \$56,550.00.

Individual Class Payments will be calculated based on the number of Workweeks worked by each Class Member during the Class Period. *Id.* at § 3.2.4. For tax purposes, the Individual Class Payments will be allocated 10% to wages and 90% to interest, reimbursement, and penalties. *Id.* at § 3.2.4.1. Defendants will separately pay employer payroll taxes owed on the wage portions of the individual class payments separate from the Gross Settlement Amount. *Id.* at § 3.1.

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

Any deductions not approved by the Court will be retained by the Settlement Administrator in the Net Settlement Amount. *Id.* at §§ 3.2.1, 3.2.2, 3.2.3, 3.2.5. Funds from any uncashed checks will be transmitted by the Settlement Administrator to the California Controller's Unclaimed Property Fund in the name of the Class Member. *Id.* at § 4.4.3. None of the Gross Settlement Amount will revert to Defendants. *Id.* at § 3.1.

B. Proposed Settlement Administration

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

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

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

17 **C. Proposed Release**

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

21 Released Class Claims:

22 All Participating Class Members will release all claims, rights, demands,
23 liabilities, and causes of action alleged or which could have reasonably been
24 alleged based on the facts alleged in the Operative Class Complaint. The Released
Class Claims are those that accrued during the Class Settlement Period.

25 Settlement Agreement at § 5.2.

26 Released PAGA Claims:

27 All Aggrieved Employees will release all claims for PAGA civil penalties that are
28 alleged or reasonably could have been alleged based on the facts alleged in the

Operative PAGA Complaint. The Released PAGA Claims are those that accrued during the PAGA Period.

Settlement Agreement at § 5.3.

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

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

A. Provisional Certification of the Class is Appropriate

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

1. The Proposed Class is Numerous and Ascertainable

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

The Class here consists of all persons who worked for Defendants in California as an hourly-paid or non-exempt employee at any time during the Class Period. *See* Settlement Agreement at § 1.5, 1.13. The Class is also readily ascertainable from Defendants’ business records, because all

1 Class Members are or were employees of Defendants. *Id.* Defendants’ records show there are
2 approximately 29 Class Members, making joinder of all Class Members impracticable. Yslas Decl.
3 at ¶ 10.

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

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

8 *a. Common Questions Predominate*

9 In determining whether common issues “predominate,” courts consider both plaintiff’s
10 legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1,
11 28-29 (2014). The “predominate common questions” factor does not require that all class members
12 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
13 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
14 permit class-wide assessment, and whether individual variations in proof on those issues are
15 manageable. *Id.*

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

28 ///

1 *b. Plaintiff is Typical of the Class*

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

9 Plaintiff has alleged that he and Class Members were employed by the same Defendants
10 and injured by Defendants' common wage and hour policies and practices, including Defendants'
11 scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Yslas
12 Decl. at ¶ 11. Through informal discovery, Plaintiff confirmed that these challenged policies and
13 practices applied to Plaintiff and Class Members alike. *See id.* at ¶ 9. Therefore, Plaintiff's claims
14 and Class Members' claims arise from the same challenged employment policies and practices and
15 are based on the same legal theories.

16 *c. Plaintiff and Plaintiff's Counsel Will Adequately Represent the Class*

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

23 Plaintiff's interests are coextensive with Class Members' interests. Declaration of Francisco
24 Rodriguez-Rubio, Jr. in Support of Plaintiff's MPA ("Rodriguez-Rubio Decl.") at ¶ 6. Plaintiff has
25 demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit,
26 providing information to his attorneys, meeting with his attorneys regarding the claims, making
27 himself available the day of mediation to answer questions, and reviewing the proposed Settlement.
28 *Id.* at ¶ 11.

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

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

5 Courts have held that class treatment of wage and hour claims is clearly “superior to the
6 other available methods for the fair and efficient adjudication of the controversy.” *Dean Witter*
7 *Reynolds, Inc. v. Superior Court*, 211 Cal.App.3d 758, 772-773 (1989). This is so because “[p]ublic
8 policy has long favored the ‘full and prompt payment of wages due an employee.’” *Sav-On Drug*
9 *Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, a class action is superior to a
10 multitude of individual lawsuits. Given the size and amount of each Class Member’s claim, Class
11 Members have little incentive to litigate their claims on an individual basis because the out-of-
12 pocket expenses and personal commitment necessary to litigate each claim likely outweigh any
13 potential recovery. Yslas Decl. at ¶ 10. Therefore, a class action is the superior method for seeking
14 relief.

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

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

25 **1. The Settlement is Entitled to a Presumption of Fairness**

26 A settlement is entitled to “a presumption of fairness . . . where: (1) the settlement is reached
27 through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel
28 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 class data providing the number of Class Members, the number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, Plaintiff’s personnel file, employment handbook and policies, job descriptions, and a random sampling of time and payroll records. Plaintiff’s Counsel engaged an expert consultant to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each claim meriting reductions in the likely success at class certification and likely recovery at trial. *Id.*

c. Plaintiff’s Counsel is Experienced in Similar Litigation

Plaintiff is represented by Wilshire Law Firm, PLC. Yslas Decl. at ¶ 22. Plaintiff’s Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 23-32. Plaintiff’s Counsel has been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

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

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

8 Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage claims
9 were based on the allegation that Defendants required Class Members to perform work duties
10 while off the clock, without compensation. Yslas Decl. at ¶ 13. For example, Plaintiff alleged
11 that Defendants failed to pay him and other Class Members all hours worked at proper rates of
12 pay. *Id.* For purposes of calculating Defendants' liability based on a best-case scenario for Plaintiff
13 and the Class, Plaintiff's Counsel assumed that all unpaid worktime should have been paid at the
14 overtime rate of pay and conservatively estimated that Defendants are liable for one (1) hour of
15 unpaid worktime per workweek. *Id.* This results in potential exposure for this claim of
16 approximately \$79,409.85 (2,743 workweeks x \$19.30 average hourly rate of pay x 1
17 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class
18 Member testimony and would not be evidenced in Defendants' time and payroll records, the risk
19 of succeeding at class certification and trial was substantial. Accordingly, Plaintiff's Counsel
20 applied a risk discount based on a 50% chance of succeeding at class certification and a 40%
21 chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
22 \$15,881.97 (\$79,409.85 x 50% x 40%). *Id.*

23 Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants
24 failed to provide Class Members with legally compliant meal periods or pay meal period premiums
25 in lieu thereof. Yslas Decl. at ¶ 14. For example, Plaintiff alleged that Defendants required him
26 and other Class Members to work through meal periods or otherwise take late or short meal periods.
27 *Id.* Additionally, Plaintiff's Counsel's expert consultant determined there was a 54% meal period
28 violation rate (for shifts over 5 hours) from the sampling of Defendants' time and payroll records,

1 where meal periods were short, late, or missed. *Id.* Therefore, potential liability for the meal period
2 claim is approximately \$131,473.53 (12,615 shifts over 5 hours x \$19.30 average hourly rate x
3 54% violation rate). *Id.* After taking into account the difficulty of certifying and proving meal
4 period claims, as well as Defendants' contention that the claim lacks merit, Plaintiff's Counsel
5 discounted this figure based on a 50% chance of succeeding at class certification and a 40% chance
6 of succeeding at trial, yielding a realistic damage estimate of approximately \$26,294.71
7 (\$131,473.53 x 50% x 40%). *Id.*

8 Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed
9 to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu
10 thereof. Yslas Decl. at ¶ 15. For example, Plaintiff alleged that Defendants required him and other
11 Class Members to stay on-site during rest periods or otherwise clock out during rest periods to
12 leave the worksite. Additionally, Plaintiff and other Class Members alleged they frequently worked
13 through their rest periods or were not offered one. *Id.* Based on Plaintiff's allegations and
14 Plaintiff's and other Class Members' experience working for Defendants, Plaintiff's Counsel
15 applied a 100% violation rate to all qualifying shifts during the Class Period. Therefore,
16 Defendants' potential liability for the rest period claim is approximately \$247,580.40 (12,828 shifts
17 of 3.5 hours or longer x \$19.30 average hourly rate x 100% violation rate). However, Plaintiff's
18 Counsel discounted this figure to account for the difficulty of certifying and proving rest period
19 claims, particularly because rest periods do not have to be recorded, and to account for the
20 possibility of Class Members voluntarily choosing to forego a rest period. *Id.* Because this claim
21 would have relied exclusively on Class Member testimony, Plaintiff's Counsel discounted this
22 claim based on a 50% chance of succeeding at class certification and a 40% chance of succeeding
23 at trial, yielding a realistic damage estimate of approximately \$49,516.08 (\$247,580.40 x 50% x
24 40%). *Id.*

25 Reimbursements: Plaintiff's reimbursement claim was based on the allegation that
26 Defendants failed to indemnify Class Members for expenses incurred as a direct result of
27 performing their job duties for Defendants, such as mandatory use of personal cell phones for work
28 purposes. Yslas Decl. at ¶ 16. For purposes of calculating Defendants' liability based on a best-

1 case scenario for Plaintiff and the Class, Plaintiff's Counsel estimated that Defendants were liable
2 to each Class Member for \$12.50 per workweek in unreimbursed expenses, for a total amount of
3 approximately \$34,287.50 ($\$12.50 \times 2,743$ workweeks). *Id.* However, Defendants argued that
4 these expenses were not required by Defendants, and that it could not have known that these
5 expenses were being incurred. *Id.* Accordingly, Plaintiff's Counsel discounted this claim based on
6 a 40% chance of succeeding at class certification and a 40% chance of succeeding at trial, yielding
7 a realistic damage estimate of approximately \$5,486.00 ($\$34,287.50 \times 40\% \times 40\%$). *Id.*

8 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
9 clock claim, meal period violations, rest period violations, and reimbursements is approximately
10 \$492,751.28. Yslas Decl. at ¶ 17. However, after factoring in the risk and uncertainty of prevailing
11 at certification and trial, Plaintiff's Counsel estimates that Plaintiff's realistic estimated recovery
12 for these non-penalty wage claims is approximately \$97,178.76. *Id.*

13 Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages
14 owed, Defendants' owed waiting time penalties and wage statement penalties. Yslas Decl. at ¶ 18.
15 With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated
16 that Defendants' maximum potential liability is approximately \$63,992. *Id.* Defendants' maximum
17 potential liability for waiting time penalties is approximately \$27,792.00 (6 employees x \$19.30
18 average hourly rate of pay x 8.00 hours/day x 30 days) based on approximately 6 formerly
19 employed Class Members during the 3-year statute of limitations period and an average shift length
20 of 8 hours. *Id.* Defendants' maximum potential liability for inaccurate wage statements is
21 approximately \$36,200.00 ([12 employees x 1 initial violation/employee x \$50 for an initial
22 violation] + [(368 pay periods - 12 initial violations) x \$100 for each subsequent violation]) based
23 on approximately 12 Class Members who worked during the 1-year statute of limitations period
24 and approximately 368 pay periods in that statutory timeframe. *Id.* In light of the foregoing,
25 Plaintiff's Counsel believes that it would be unrealistic to expect the Court to award the full
26 \$63,992.00 in statutory penalties given Defendants' defenses, the contested nature of Plaintiff's
27 claims, the challenges of establishing willfulness as applicable, and the discretionary nature of
28 penalties. *Id.* Considering that the underlying wage claims are realistically estimated to be

1 approximately \$97,178.76, such a disproportionate award would also raise due process concerns.
2 *Id.* As such, Plaintiff's counsel discounted these figures to account for the risk and uncertainty of
3 obtaining class certification and prevailing at trial, resulting in a realistic evaluation of
4 approximately \$4,446.72 for waiting time penalty claims ($\$27,792 \times 40\% \times 40\%$), and
5 approximately \$5,792 for wage statement penalty claims ($\$36,200 \times 40\% \times 40\%$), or approximately
6 \$10,238.72 total for statutory penalties. *Id.*

7 PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendants' potential
8 exposure could reach \$36,800.00, assuming the initial \$100 penalty would apply for each of the
9 368 pay periods in the PAGA Period. Yslas Decl. at ¶ 19. However, even assuming success on the
10 merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of reasons,
11 including where to do otherwise would result in an award that is unjust, arbitrary and oppressive,
12 or confiscatory. *Id.* As such, Plaintiff's counsel discounted this figure to account for the risk and
13 uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately \$7,360 for
14 PAGA penalties ($\$36,800 \times 20\%$). *Id.* The settlement allocates \$6,500.00 of the Gross Settlement
15 Amount to PAGA, therefore the PAGA allocation amounts to 4.7% of the Gross Settlement
16 Amount and approximately 88% of the realistic maximum damages for PAGA penalties ($\$6,500 /$
17 $\$7,360$). *Id.*

18 Using these estimated figures, Plaintiff's Counsel predicted that the realistic maximum
19 recovery for all claims, including penalties, would be approximately \$114,777.48. Yslas Decl. at
20 ¶ 20. This means that the realistic damages estimate represents approximately 83.2% of the gross
21 settlement amount ($\$114,777.48 / \$138,000.00$). *Id.* Considering the risk and uncertainty of
22 prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
23 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
24 avoid the risk of an unfavorable judgment. *Id.*

25 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
26 class settlement payments is currently estimated to be \$56,550.00 for approximately 29 Class
27 Members. Yslas Decl. at ¶ 21. As a result, each Class Member would be eligible to receive an
28 average net benefit of approximately \$1,950.00. *Id.* Based on the estimated Net Settlement Amount

1 available for individual class payments and there being approximately 2,743 workweeks in the
2 Class Period, the estimated weekly valuation for Individual Class Payments is \$20.62 (\$56,550.00
3 / 2,743 workweeks). *Id.*

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

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

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

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

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

1 Plaintiff seeks appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
2 performed significant work and expended litigation costs in prosecuting this matter with no
3 guarantee of payment. Yslas Decl. at ¶ 22. Plaintiff's Counsel seeks preliminary approval for up
4 to one-third (1/3) of the Gross Settlement Amount in attorneys' fees, currently estimated to be
5 \$46,000.00, and up to \$15,000.00 in reimbursement of litigation costs. Given the work performed
6 in this matter, the extensive information exchange, and the substantial recovery obtained on behalf
7 of the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See*
8 *generally*, Yslas Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request
9 for the award of attorneys' fees and litigation costs.

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

11 The Parties have agreed upon using Phoenix to administer this Settlement. Settlement
12 Agreement at §§ 1.2, 7.1. Plaintiff seeks preliminary approval of \$3,950.00 for Phoenix to
13 administer this Settlement pursuant to Phoenix's will-not-exceed bid. *See* Yslas Decl. at ¶ 37,
14 Exhibit 4. The services covered by this payment are extensive and necessary to carry out the
15 Settlement administration.

16 **V. CONCLUSION**

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

22 Respectfully submitted,

23 Dated: September 30, 2026

WILSHIRE LAW FIRM, PLC

24
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