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[Additional Counsel on following page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BRIANNA ROMERO, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

LEVI STRAUSS & CO., a Delaware
corporation; LEVI'S ONLY STORES, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 24STCV02320 (lead)
Case No.: 24STCV06525
Case No.: 24STCV13061

*Assigned for all purposes to:
Hon. Kenneth R. Freeman
Dept. 14*

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

Date: September 9, 2025
Time: 11:00 a.m.
Dept.: 14

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on either September 9, 2025 at 11:00 a.m., or as soon thereafter as the matter may be heard in Department 14 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiffs Thora Magney and Esha Hickson (“Plaintiffs”) will and hereby do move this Court for an Order:

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

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

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of John G. Yslas, the Declaration of Enoch J. Kim, the Declaration of Jodey Lawrence, the Declaration of Thora Magney, the Declaration of Esha Hickson, and on all records and documents on file, together with such oral and documentary evidence that may be presented at the hearing on this matter.

Respectfully submitted,

Dated: March 21, 2025

WILSHIRE LAW FIRM

By: _____

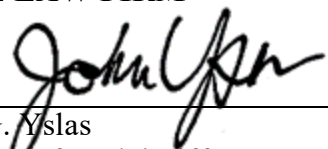

John G. Yslas
Attorneys for Plaintiffs

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I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs seek preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Private Attorneys' General Act of 2004 ("PAGA"), against Defendants Levi Strauss & Co., Levi's Only Stores, Inc., and I Am Beyond, LLC (collectively, "Defendants"). The proposed Class is defined as all non-exempt, hourly individuals who worked for Levi Strauss & Co., Levi's Only Stores, Inc., or I Am Beyond, LLC in California ("Class Members") during the Class Period of January 30, 2020 through December 31, 2024 ("Class Period"). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of \$3,095,000.00, which will be distributed to approximately 3,764 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 thirty-five percent (35%) of the Gross Settlement Amount (currently \$1,083,250.00) and up to \$40,000.00 in reimbursement of litigation costs to Plaintiffs' Counsel;
3. A class representative service payment of up to \$10,000.00 to Plaintiff Thora Magney and \$10,000.00 to Plaintiff Esha Lakita Hickson;
4. Costs of settlement administration of up to \$25,000.00; and
5. Allocation of \$160,000.00 to PAGA penalties, seventy-five percent (75%) of which (\$120,000.00) will be paid to the Labor and Workforce Development Agency ("LWDA"), and twenty-five percent (25%) of which (\$40,000.00) will be paid to all non-exempt, hourly individuals who worked for Levi Strauss & Co., Levi's Only Stores, Inc., or I Am Beyond, LLC in California during the PAGA Period of January 30, 2023 through December 31, 2024 ("PAGA Members").

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

Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as the Class Representatives, appoint Plaintiffs' Counsel as Class Counsel, appoint Phoenix Class Action Administration Solutions as the Settlement Administrator, authorize the Settlement Administrator to administer notice of the Settlement to the Class, and set a final approval hearing date.

II. PROCEDURAL HISTORY

On January 30, 2024, Plaintiff Brianna Romero sent a letter to the LWDA as required by Lab. Code § 2699.3(a). Declaration of John G. Yslas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ("Yslas Decl.") at ¶ 3, Exhibit 3. The LWDA did not respond to this notice, indicating it did not intend to investigate, thereby authorizing Plaintiff Brianna Romero to represent the State of California as a private attorney general for the purposes of PAGA. *Id.* On the same date, Plaintiff Brianna Romero filed an action as a putative class action against Defendants Levi Strauss & Co. and Levi's Only Stores, Inc., 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, Case No. 24STCV02320. *Id.*

On March 14, 2024, Plaintiff Esha Hickson sent a letter to the LWDA as required by Lab. Code § 2699.3(a). Declaration of Enoch J. Kim in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ("Kim Decl.") at ¶ 3. The LWDA did not respond to this notice, indicating it did not intend to investigate, thereby authorizing Plaintiff Esha Hickson to represent the State of California as a private attorney general for the purposes of PAGA. *Id.* On the same date, Plaintiff Esha Hickson filed an action as a putative class action against Defendants Levi Strauss & Co., Levi's Only Stores, Inc., and Body Yoga, alleging: (1) failure to pay minimum wages; (2) failure to pay wages and overtime under Labor Code § 510; (3) meal-period liability under Labor Code § 226.7; (4) rest-break liability under Labor Code § 226.7; (5) failure to pay vacation wages; (6) failure to comply with Labor Code § 245 *et seq.* and 246; (7) violation of Labor

Code § 226(a); (8) penalties pursuant to Labor Code § 203; and (9) violation of business and professions code § 17200 *et seq.*, Case No. 24STCV06525. *Id.*

On May 20, 2024, Plaintiff Esha Hickson filed a First Amended Complaint alleging a tenth cause of action for penalties pursuant to Labor Code § 2699, *et seq.* *Id.*

On May 23, 2024, Plaintiff Brianna Romero filed a representative action against Defendants Levi Strauss & Co. and Levi’s Only Stores, Inc., alleging civil penalties under PAGA (Cal. Lab. Code § 2699, *et seq.*), Case No. 24STCV13061. Yslas Decl. at ¶ 6.

The parties subsequently participated in a private mediation with mediator Daniel Turner on October 21, 2024. Yslas Decl. at ¶ 7. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interest of their clients. *Id.* Shortly thereafter, the parties were able to reach an agreement on general settlement terms and finalized the Memorandum of Understanding (“MOU”) on December 18, 2024. *Id.*

On November 7, 2024, Plaintiff Thora Magney sent a letter to the LWDA as required by Lab. Code § 2699.3(a). Yslas Decl. at ¶ 8, Exhibit 4. The LWDA did not respond to this notice, indicating it did not intend to investigate, thereby authorizing Plaintiff Thora Magney (“Plaintiff”) (collectively, with Plaintiff Esha Hickson “Plaintiffs”) to represent the State of California as a private attorney general for the purposes of PAGA. *Id.*

On February 20, 2025, the Court granted Plaintiff Brianna Romero’s stipulation and ordered that Plaintiff Brianna Romero would be granted leave to file the Consolidated Complaint in lead case, Case No. 24STCV02320, that would consolidate Case No. 24STCV02320, Case No. 24STCV06525, and Case No. 24STCV13061. Yslas Decl. at ¶ 9. Additionally, adding Thora Magney as a named plaintiff, dismissing Brianna Romero as a named plaintiff, and adding I Am Beyond, LLC as a named defendant. *Id.*

On February 24, 2025, Plaintiffs filed a Consolidated Class and PAGA Representative Action Complaint against Defendants Levi Strauss & Co., Levi’s Only Stores, Inc., and I Am Beyond, LLC (collectively referred to as “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)

1 failure to provide accurate itemized wage statements; (7) failure to indemnify employees for
2 expenditures; (8) failure to produce requested employment records; (9) unfair business practices
3 (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); (10) failure to pay vacation wages; (11) failure to
4 comply with Labor Code § 245 *et seq.* and 246; and (12) civil penalties under PAGA (“Operative
5 Complaint”). Yslas Decl. at ¶ 10.

6 After finalizing the MOU, Plaintiffs and Defendants (hereinafter, collectively referred to as
7 the “Parties”) negotiated the terms of the Settlement over the next few months, which was finalized
8 on March 10, 2025. *Id.* at ¶ 11, Exhibit 1 (“Settlement Agreement”). On March 21, 2025, Plaintiffs
9 submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 12, Exhibit 2.

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

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

12 The parties have agreed to settle the claims alleged in this case for a Gross Settlement
13 Amount of \$3,095,000.00. Settlement Agreement at § 1.13. Subject to Court approval, the
14 following payments will be deducted from the Gross Settlement Amount: (1) a class representative
15 service payment of up to \$10,000.00 to Plaintiff Thora Magney and \$10,000.00 to Plaintiff Esha
16 Hickson; (2) attorneys’ fees of up to thirty-five percent (35%) of the Gross Settlement Amount
17 (currently \$1,083,250.00) and reimbursement of actual litigation costs to Plaintiffs’ Counsel
18 currently estimated not to exceed \$40,000.00; (3) costs of settlement administration of up to
19 \$25,000.00 to Phoenix Class Action Administration Solutions; and (4) PAGA penalties in the
20 amount of \$160,000.00, which will be allocated 75% to the LWDA (\$120,000.00) and 25% to
21 PAGA Members (\$40,000.00). *Id.* at §§ 6, 7, 8, 9. After all requested deductions are made, the
22 remaining Net Settlement Amount is currently estimated to be \$1,766,750.00. *Id.* at § 5.1. Class
23 Counsel estimates with approximately 3,764 Class Members the Net Settlement Amount allocates
24 an average of \$469.38 and a high of \$1,875.14 per Class Member. Yslas Decl. at ¶ 24. With
25 approximately 1,800 PAGA Members, the PAGA penalties apportioned to PAGA Members
26 allocates an average of \$22.22 and a high of \$37.76 per PAGA Member. *Id.*

27 Individual Class Member Payments will be calculated based on the value per workweek
28 multiplied by the number of workweeks worked by each Class Member during the Class Period.

1 *Id.* at § 5.1.1.1. For tax purposes, the individual class payments will be allocated 20% to wages
2 and 80% to penalties, interest, and reimbursement of expenses. *Id.* at § 11.2. Defendants will
3 separately pay any and all employer payroll taxes owed on the wage positions of the individual
4 class payments separate from the Gross Settlement Amount. *Id.* at § 1.13.

5 Individual PAGA Payments to PAGA Members will be calculated based on the value per
6 pay period multiplied by the number of pay periods worked by each PAGA Member during the
7 PAGA Period. *Id.* at § 5.1.1.2. For tax purposes, the individual PAGA Payments will be allocated
8 100% to penalties.

9 Any deductions not approved by the Court will be retained by the Settlement Administrator
10 in the Net Settlement Amount. *Id.* at §§ 6, 7, 8, 9. Funds from any uncashed checks will be
11 transmitted by the Settlement Administrator to the California Controller's Unclaimed Property
12 Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the
13 requirements of California Code of Civil Procedure Section 384, subd. (b). *Id.* at § 10.5. None of
14 the Gross Settlement Amount will revert to Defendant. *Id.* at § 1.13.

15 **B. Proposed Settlement Administration**

16 The Parties' proposed Class Notice complies with the requirements of California Rules of
17 Court, Rule 3.766(d). *See* Exhibit A to Settlement Agreement. It provides information regarding
18 the nature of this lawsuit, a summary of the settlement terms, the formula used for calculating
19 individual Class Member and PAGA Payments and instructions to dispute the calculations,
20 instructions on how to opt-out of or object to the Settlement, the date, time, and location of the
21 final approval hearing, and the amounts sought for the class representatives service payment,
22 attorneys' fees and litigation costs, and settlement administration costs. *See generally, Id.* The
23 Class Notice also notifies Class Members that they do not need to submit a claim in order to
24 participate in the Settlement and receive a payment. *See Id.* The Settlement Administrator will mail
25 Class Members the Class Notice by first-class mail in English. Settlement Agreement at § 14.2.5.

26 If a Class Notice is returned as undeliverable, the Settlement Administrator will perform
27 one skip-trace procedure and re-mail the Class Notice no later than five business days to the
28 forwarding address provided by the skip-trace. *Id.* at § 14.2.6. The deadline to opt-out of the

Settlement or to submit an objection or dispute will be extended by 14 days for all Class Members whose Class Notice was remailed. *Id.* at § 16.2.

C. Proposed Release

All Settlement Class Members will release any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, and irrespective of theory of recovery, that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action arising during the Class Period, irrespective of theory of recovery. The released claims include, but are not limited to, claims for failure to pay overtime, failure to pay minimum wage, failure to provide meal periods, short/late meal periods, failure to relieve of all duties during meal periods, failure to pay or properly compensate meal break premiums, failure to provide rest periods, short/late rest periods, failure to relieve of all duties during rest periods, failure to pay or properly compensate rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, failure to maintain employment records, failure to indemnify for business expenses, failure to pay vacation wages, failure to pay sick wages, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties and claims under the UCL (Business and Professions Code Section 17200 et seq.). Settlement Agreement at § 13.1.

All PAGA Class Members will release any and all claims for PAGA civil penalties that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action or letters submitted to the LWDA in connection with the Action, during the PAGA Period, irrespective of theory of recovery. The released PAGA claims include, but are not limited to, PAGA claims predicated upon the alleged for failure to pay overtime, failure to pay minimum wage, failure to provide meal periods, short/late meal periods, failure to relieve of all duties during meal periods, failure to pay or properly compensate meal break premiums, failure to provide rest periods, short/late rest periods, failure to relieve of all duties during rest periods, failure to pay or properly compensate rest break premiums, failure to furnish accurate

wage statements, failure to pay final wages upon separation of employment, failure to maintain employment records, failure to indemnify for business expenses, failure to pay vacation wages, failure to pay sick wages, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims. *Id.* at § 13.2. Only Plaintiffs will agree to a general release and a waiver of Civil Code § 1542. *Id.* at § 13.3.

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 non-exempt, hourly individuals who worked for Levi Strauss & Co., Levi’s Only Stores, Inc., or I Am Beyond, LLC in California during the Class Period. *See* Settlement Agreement at § 1.2. The Class is also readily ascertainable from Defendants’ business

records, because all Class Members are or were employees of Defendants. Yslas Decl. at ¶ 14. Defendants’ records show there are approximately 3,764 Class Members, making joinder of all Class Members impracticable. *Id.*

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

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

a. Common Questions Predominate

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

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

b. Plaintiffs are Typical of the Class

1 Typicality does not require that the representative plaintiff's claims and those of the class
2 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
3 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th
4 260, 269-280 (2018). Typicality does not require that a plaintiff's claims be identical to those of
5 other class members, only that their claims and the defenses applicable to them are sufficiently
6 similar to those of other class members that a named plaintiff is able to adequately represent the
7 class and focus on common issues. *Medraza v. Honda of North Hollywood*, 166 Cal.App.4th 89,
8 99 (2008).

9 Plaintiffs have alleged that they and Class Members were employed by the same
10 Defendants and injured by Defendants' common wage and hour policies and practices, including
11 Defendants' scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies.
12 See Yslas Decl. at ¶ 15. Through informal discovery, including the production of hundreds of
13 documents by Defendants, Plaintiffs confirmed that these challenged policies and practices applied
14 to Plaintiffs as well as Class Members. See *Id.* at ¶ 13. Therefore, Plaintiffs contend that Plaintiffs'
15 claims and Class Members' claims arise from the same challenged employment policies and
16 practices and are based on the same legal theories.

17 *c. Plaintiffs and Plaintiffs' Counsel Will Adequately Represent the*
18 *Class*

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

25 Plaintiffs' interests are coextensive with Class Members' interests. Declaration of Thora
26 Magney in Support of Motion for Preliminary Approval ("Magney Decl.") at ¶ 6 and Declaration
27 of Esha Hickson in Support of Motion for Preliminary Approval ("Hickson Decl.") at ¶¶ 6, 7.
28 Plaintiffs have demonstrated an ability to advocate for the interests of Class Members by initiating

1 this lawsuit, gathering documents and information, being available on the day of mediation to
2 answer questions, meeting with their attorneys to understand the claims and theories of liability at
3 issue, assisting their attorneys in preparation for mediation, and reviewing the proposed Settlement.
4 Magney Decl. at ¶ 7 and Hickson Decl. at ¶ 7.

5 Likewise, Wilshire Law Firm and D. Law, Inc., have expended considerable time and effort
6 on this case and will continue to do so through final approval. *See generally*, Yslas Decl. Therefore,
7 Plaintiffs should be appointed Class Representatives, and their counsel should be appointed Class
8 Counsel.

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

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

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

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

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. Plaintiffs 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 achieved with the assistance of a respected mediator following a full day of mediation. Yslas Decl. at ¶ 7. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

b. Sufficient Investigation and Discovery Have Been Conducted

Prior to attending mediation, Plaintiffs’ Counsel thoroughly investigated the claims, applicable law, and potential defenses. *Id.* at ¶ 13. Plaintiffs’ Counsel assessed the value to the class claims using the documents and data 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 Brianna Romero’s personnel file, Plaintiff Esha Hickson’s personnel file, employment handbooks and policies, job descriptions, and a random sampling of time and payroll records. *Id.*

c. Plaintiffs’ Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Wilshire Law Firm and D.Law, Inc. *Id.* at ¶ 25. Plaintiffs’ Counsel have extensive experience litigating wage and hour class actions on behalf of employees.

1 *See Id.* at ¶¶ 25-37. Plaintiffs' Counsel have been involved as counsel in numerous class actions
2 that have resulted in millions of dollars in recovery. *Id.*

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

5 A settlement does not have to provide 100% of the damages sought to be considered fair
6 and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1991). Although
7 the exposure Plaintiffs' Counsel calculated is substantial, the various risks at succeeding at class
8 certification and through trial affected the valuation of the claims for settlement purposes. Yslas
9 Decl. at ¶ 13.

10 Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage claims
11 were based on the allegation that Defendant required Class Members to perform work duties while
12 off-the-clock. *Id.* at ¶ 17. Based on Plaintiffs' estimate that they worked a total of one-hour off-
13 the-clock each week, Plaintiffs' Counsel assumed each Class Member worked one-hour off-the-
14 clock per week in calculating potential exposure to be approximately \$6,111,314.00 for these
15 claims. *Id.* Because this claim would have relied heavily on Class Member testimony and would
16 not be evidenced in Defendants' time and payroll records, the risk of succeeding at class
17 certification was substantial. *Id.* Accordingly, Plaintiffs' Counsel applied a risk discount to this
18 claim based on a 30% chance at class certification and 20% chance at trial to reach a settlement
19 value of approximately \$366,678.84. *Id.*

20 Meal Periods: Plaintiffs' meal period claim was based on the allegation that Defendants
21 failed to maintain a compliant meal period policy and practice which led to Class Members'
22 receiving shortened, interrupted, or missed meal periods. *Id.* at ¶ 18. Plaintiffs' Counsel found a
23 facial violation rate of nearly 67% in Defendants' time and payroll records for shifts between 10
24 and 12 hours and calculated potential exposure on this claim to be approximately \$5,115,150.00.
25 *Id.* However, Defendants argued that Class Members signed meal period waivers. *Id.* Accordingly,
26 Plaintiffs' Counsel believed there was a 40% chance of succeeding at class certification and a 40%
27 chance of succeeding at trial, resulting in a risk discount to reach a settlement value of
28 approximately \$818,424.00. *Id.*

1 Rest Breaks: Plaintiffs' rest period claim was based on the allegation that Defendants
2 maintained a policy that required class members to stay on premises during rest breaks unless there
3 were two other employees at the location and class members were required to work in lieu of taking
4 rest periods, or their rest periods were interrupted. *Id.* at ¶ 19. Plaintiffs' Counsel applied a 100%
5 violation rate for the Class Period based on Plaintiffs' and other Class Members' experience
6 working for Defendants, Defendants' potential liability for the rest period claim is \$17,284,593.00.
7 *Id.* However, we discounted this figure to account for the difficulty of certifying and proving rest
8 period claims, particularly because rest periods do not have to be recorded, and to account for the
9 possibility of Class Members voluntarily choosing to forego a rest period. Thus, yielding a realistic
10 damage estimate of \$1,037,075.58 based on a 30% chance of succeeding at class certification and
11 a 20% chance of succeeding at trial. *Id.*

12 Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that
13 Defendant required Class Members to use their personal cellular phones for work-related purposes.
14 *Id.* at ¶ 20. Assuming a very conservative \$30/per month per employee for unpaid reimbursements,
15 this results in a damage estimate of \$2,140,858.00. *Id.* However, after discounting this figure based
16 on an evaluation of a 40% chance of succeeding at class certification and a 30% chance of
17 succeeding at trial to account for the difficulty of certifying and proving unpaid reimbursements
18 and necessary business expenses, yields a realistic damage estimate of \$256,902.96. *Id.*

19 Derivative and PAGA Penalties: Plaintiffs alleged that as a result of Defendants' alleged
20 failure to pay all wages and meal and rest period premiums owed, Defendants owed waiting time
21 penalties and wage statement penalties. *Id.* at ¶ 22. Plaintiffs' Counsel calculated that potential
22 exposure for the waiting time penalty claim was approximately \$63,300.00, approximately
23 \$4,872,700.00 for the wage statement penalty claim, and \$4,872,700.00 for PAGA violations based
24 on the Court assessing a \$100 penalty for initial violations for all 48,727 pay periods within the
25 one-year statute. *Id.* However, it would be unrealistic to expect the Court to award the full
26 \$9,808,700 in penalties given Defendants' defenses, the contested nature of Plaintiffs' claims, and
27 the discretionary nature of penalties. Considering that the underlying claims are realistically
28

1 estimated to be \$2,479,081.38¹, such a disproportionate award would also raise due process
2 concerns. *Id.* at ¶ 21.

3 Weighing these factors and applying a discount to account for the risk and uncertainty of
4 prevailing at trial, we arrived at \$592,320.00 (based on Plaintiffs’ realistic estimated recovery of
5 \$7,596.00 for waiting time penalties + \$584,724.00 for wage statement penalty claims) for
6 statutory and civil penalties after considering an evaluation of a 40% chance of succeeding at class
7 certification and a 30% chance of succeeding at trial. *Id.* at ¶ 23. Most importantly, after taking
8 into consideration that the Court would have discretion to reduce the PAGA award based on
9 whether the amount of the award would be “unjust, arbitrary and oppressive, or confiscatory” Lab.
10 Code §2699(e)(2), Plaintiffs’ could not place a high value on the PAGA penalties, and therefore
11 allocated \$160,000 of the Gross Settlement Amount to settle these claims. *Id.* See *Hopson v.*
12 *Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 U.S. Dist. LEXIS 33900 at *24 (N.D. Cal. Apr. 3,
13 2009) (finding amount of PAGA penalties reasonable where the amounts are negotiated in good
14 faith and “there is no indication that [the] amount was the result of self-interest at the expense of
15 other Class Members”); *Nordstrom Comm’n Cases* 186 Cal.App.4th 576, 579 (2010) (“trial court
16 did not abuse its discretion in approving a settlement which does not allocate any damages to the
17 PAGA claims”).

18 Using these estimated figures, Plaintiffs predicted that the realistic maximum recovery for
19 all claims, including penalties, would be \$3,231,401.38 (\$2,479,081.38 in damages for violations
20 + \$752,320.00 (inclusive of wage statement penalties, waiting time penalties, and PAGA penalties)
21 in statutory and civil penalties). *Id.* at ¶ 24. This means that the \$3,095,000.00 settlement figure
22 represents 95.78% of the realistic maximum recovery. *Id.* Considering the risk and uncertainty of
23 prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed,
24
25

26
27 ¹ We estimate that Plaintiffs’ realistic estimated recovery for the non-penalty claims is
28 \$2,479,081.38 (\$366,678.84 for unpaid wages+ \$818,424.00 for meal period violations +
\$1,037,075.58 for rest break violations + \$256,902.96 for unpaid reimbursements). Yslas Decl., ¶
21.

1 because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will
2 avoid the risk of an unfavorable judgment. *Id.*

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

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

11 Throughout this case, Plaintiffs assisted counsel in gathering evidence necessary to
12 prosecute the claims, maintained regular contact with counsel, was available on the day of
13 mediation to answer questions, and reviewed the Settlement to ensure it was fair to the Class.
14 Magney Decl. at ¶ 7 and Hickson Decl. at ¶ 7. No action would likely have been taken by Class
15 Members individually and no compensation would have been recovered for them, but for Plaintiffs’
16 services on behalf of the Class. By actively pursuing this action, Plaintiffs furthered the California
17 public policy goal of enforcing the State’s wage and hour laws. *See Sav-On*, 34 Cal.4th at 340. The
18 requested class representative service payment is reasonable and should be preliminarily approved.

19 **D. The Requested Attorneys’ Fees and Costs Are Reasonable**

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

26 Plaintiffs seek appointment of Wilshire Law Firm and D.Law, Inc. as Class Counsel. The
27 attorneys performed significant work and expended litigation costs in prosecuting this matter with
28 no guarantee of payment. Yslas Decl. at ¶¶ 25-37; Kim Decl. at ¶ 10. Plaintiffs’ Counsel seek

preliminary approval for \$1,083,250.00 in attorneys' fees, which is up to thirty-five percent (35%) of the Gross Settlement Amount, and reimbursement of actual litigation costs not to exceed \$40,000.00. Given the work performed in this matter, the extensive information exchanged and analyzed, the lengthy and adversarial settlement negotiations that took place with Defendants, and the substantial recovery obtained on behalf of the Class, Plaintiffs' Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas Decl. At final approval, Plaintiffs' Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs.

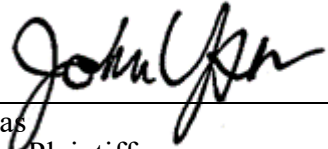
V. CONCLUSION

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

Respectfully submitted,

Dated: March 21, 2025

WILSHIRE LAW FIRM

By: 

John G. Yslas
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