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Attorneys for Plaintiff
LAZARO BOR

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

LOZARO BOR, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

ALEXANDER ANDREW, INC. dba
FALLTECH., a California corporation; and
DOES 1 through 100,

Defendants.

Case No. 19STCV26589

*[Assigned for all purposes to the Hon. William F.
Highberger, Dept. SSC-10]*

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT, AND ATTORNEYS' FEES
AND COSTS**

Date: November 4, 2020
Time: 11:00 a.m.
Dept.: SSC-10

Complaint Filed: July 31, 2019
Trial Date: None Set

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Lazaro Bor (“Plaintiff”) and the proposed Settlement Class in the above-captioned
4 matter. I am a member in good standing of the bar of the State of California and am admitted to practice
5 in this Court. I have personal knowledge of the facts stated in this declaration and could testify
6 competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
28

1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.

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27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
2 United States District Court, Central District of California, Honorable Percy
3 Anderson, presiding.
- 4 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
5 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 6 ▶ *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ▶ *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
10 States District Court, Central District of California, Honorable Percy Anderson,
11 presiding.
- 12 ▶ *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
13 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 14 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
15 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 16 ▶ *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
17 KSC, United States District Court, Southern District of California.⁴
- 18 ▶ *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
19 of Solano, Honorable Paul Berman, presiding.
- 20 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
21 Superior Court, County of Orange, Honorable William Claster, presiding.
- 22 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
23 Superior Court, County of Orange, Honorable William Claster, presiding.
- 24
- 25

26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

27 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

28 ⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

1 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
2 Court, County of San Francisco.

3 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
4 Court, Northern District of California, Honorable Richard Seeborg, presiding.

5 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
6 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
7 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
8 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
9 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
10 five (65) wage and hour class actions filed in State courts throughout California, with several of them
11 having been removed to Federal courts. I believe that my professional experience renders me more than
12 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
13 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
14 of wage and hour cases throughout my career involving similar claims, including the wage and hour
15 class actions identified above, I have litigated similar claims from both plaintiff and defense
16 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
17 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
18 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
19 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

20 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
21 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
22 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
23 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-
24 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
25 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,
26 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*
27 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,
28

Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; and *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding.

9. As co-lead counsel for Plaintiff and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a favorable result for the Settlement Class Members under the circumstances presented.

10. On July 31, 2019, Plaintiff filed a putative class action complaint against FallTech in Los Angeles County Superior Court. As part of the Settlement, the Parties agreed that Plaintiff would file a First Amended Complaint which would add claims for failure to provide accurate, itemized wage statements and liability for civil penalties under PAGA. On June 29, 2020, pursuant to the Court's directive during the Motion for Preliminary Approval hearing, Plaintiff served a First Amended Class and Representative Action Complaint via Case Anywhere which the Court then had filed. Plaintiff's primary allegations are that FallTech: (1) failed to provide all legally required meal periods; (2) failed to authorize and permit all legally required rest periods; (3) failed to pay all final wages upon separation of employment; (4) failed to provide accurate, itemized wage statements; (5) engaged in unlawful business practices, and (6) is liable for civil penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

11. As explained in detail in the Motion for Preliminary Approval, Plaintiff's primary theories of liability are related to FallTech's alleged failure to provide Settlement Class members all legally compliant duty-free meal and rest periods. Specifically, Plaintiff alleges that due to FallTech's bell signal system related to its meal periods, there was a corresponding result of late, short and otherwise unlawful meal periods.

12. FallTech counters that it has always provided non-exempt employees with an opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in employee timekeeping records were solely the result of employee choice, rather than any policy or practice of FallTech. FallTech points out that it is only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken, and that they have always done so. FallTech also contends that it changed certain practices that would resolve any meal period issues, if any at all. Finally, FallTech contends Plaintiff’s meal period claim is not suited for class certification, since individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took what appeared in the time records to be a non-compliant meal period or missed a meal period during a particular shift.

13. Plaintiff alleges that he and Settlement Class members were also not authorized and permitted to take all required rest periods due to FallTech's rest period policies and practices that fail to authorize and permit all rest periods for every four hours worked, *or major fraction thereof*. Specifically, Plaintiff alleges that due to FallTech's bell signal system, the second rest period was only 8 minutes rather than the requisite 10 minutes.

14. FallTech contends it has always maintained and enforced lawful rest period policies and practices, and that Settlement Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. FallTech contends its bell signal provides 10 minutes rest periods. Further, FallTech argues that Plaintiff's rest period claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Settlement Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials.

15. Plaintiff further alleges that FallTech issued inaccurate wage statements in violation of Labor Code § 226 as a result of the alleged unpaid meal and rest period premium wages described above.

16. FallTech argues that meal and rest period claims cannot support a claim for wage statement penalties. FallTech further argues that its alleged wage statement violations could not be shown to be “knowing and intentional,” and that Plaintiff cannot show that he or any other employee “suffer[ed] injury” as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties.

17. Plaintiff alleges that FallTech is also liable for waiting time penalties under Labor Code § 203 as a result of its failure to pay all meal and rest period premium wages.

18. FallTech asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties.

19. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations.

20. FallTech argues that Plaintiff's PAGA claim will fail for the same reasons that his underlying claims will fail. FallTech also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find FallTech liable.

21. These considerations, not only bore heavily on the negotiations leading to the Settlement, but also confirm that the Settlement is fair, adequate, and reasonable compromise in view of the risks of further litigation. As detailed in Plaintiff's Motion for Preliminary Approval, Plaintiff carefully vetted the claims at issue and conducted a detailed statistical analysis of class-wide data to arrive at the calculated damages figures. Thus, while these risks are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them.

22. After agreeing to participate in an early mediation, FallTech informally produced a sampling of time records and payroll data for the putative class, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged. After the detailed review of the payroll and time records and other documents and policies produced by FallTech, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. This discovery allowed the parties to assess the merits and value of Plaintiff's claims and FallTech's defenses thereto, if a settlement could not be reached.

23. On January 14, 2020, after extensive research and analysis, a full-day mediation was held with Jeffrey Krivis, a well-respected wage and hour class action mediator. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. Ultimately, through a mediator's proposal, the parties agreed in principle on a class-wide resolution. As part of the Settlement, the Parties agreed (and the Court ultimately approved) that Plaintiff would file a First Amended Complaint which would add claims for failure to provide accurate, itemized wage statements and liability for civil penalties under PAGA. In the weeks that followed, the parties finalized the terms of settlement and executed the Stipulation of Settlement ("Settlement").

24. Plaintiff submitted the Settlement to the Court with his Motion for Preliminary Approval on June 4, 2020. At the June 29, 2020 Motion for Preliminary Approval hearing, the Parties and the Court discussed certain changes to Settlement and the Court. On July 1, 2020, the Parties then prepared and executed Joint Stipulation Re Parties' Stipulation and Settlement of Class and Representation Action reflecting all of the changes discussed with the Court. On July 6, 2020, the Court granted preliminary approval of the class action settlement. Attached hereto as **Exhibit A** is a true and correct copy of the July 6, 2020 Order Granting Preliminary Approval.

25. The Settlement Class encompasses “all current and former non-exempt employees employed by Defendant in the State of California during the period of July 31, 2015 through June 26, 2020.”

26. Funds remaining unclaimed will be distributed to the California State Controller's Office – Unclaimed Property Fund in the name of the Settlement Class member.

27. In my experience in wage and hour class action matters similar to this one, fee awards generally average around one-third of the gross recovery.

28. My law firm's and co-counsel's work on this case includes, but is not limited to: pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, reviewing FallTech's documents and policies, analyzing timekeeping data and payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Settlement Agreement and Joint Stipulation to the Settlement Agreement, preparing the Motions for Preliminary and Final Approval, overseeing the settlement administration process, and otherwise litigating this case.

29. Since undertaking representation of Plaintiff, my firm and/or co-counsel's firm dedicated substantial resources to this litigation, including expending a total of \$19,369.69, in actual costs, have devoted substantial time to this litigation and expect to incur approximately \$1,000.00 in future costs for filing the instant motion, filing the final declaration regarding distribution of settlement, CaseAnywhere fees, service and messenger fees, postage fees, parking, mileage, and/or

LACourtConnect costs for future appearances. A true and correct copy of my firm's and Haines Law Group's costs summary in this matter is attached hereto as **Exhibit B**.

30. My experience in matters similar to this one was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. This case involved nuanced legal issues including questions surrounding FallTech's obligation to "provide" meal periods, "authorize and permit" rest periods, and the propriety of statutory penalties, to name just a few.

31. Given the considerable potential for adverse outcomes in this case, including, but not limited to losing on class certification and/or merits issues, the contingent risk borne by Class Counsel was great. In addition to the legal and procedural challenges this lawsuit presented, there were also other practical challenges. There was a real risk that my firm and co-counsel's firm would not be compensated for our work, because our firms handled this matter on a purely contingent basis. Thus, Plaintiffs were not responsible for paying my firm's attorneys' fees and my firm could only recover attorneys' fees if Plaintiff was successful. By the time I (or someone from my firm) attend the final approval hearing in this matter, my firm and co-counsel firm will have litigated this case for well over one year with no payment, all while bearing the risk of non-payment if Plaintiff was unsuccessful. Moreover, as discussed above, Class Counsel has advanced \$19,369.69 in litigation costs on a contingency basis, which also carried risk because Class Counsel would not recoup its costs in the event Plaintiffs did not prevail in this lawsuit.

32. In this case, Class Counsel have a lodestar of \$131,272.50, which results in a multiplier of approximately 1.65 compared to the \$216,666.67 fee request. The following is a general summary showing the number of hours of work performed by each attorney and paralegal in my firm and co-counsel's firm on this case:

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (22nd Year Attorney)	\$750	67.4	\$50,550.00

Elizabeth Nguyen (15th Year Attorney)	\$650	58.3	\$37,895.00
Paul K. Haines (14th Year Attorney)	\$650	22.7	\$14,755.00
Milan Moore (5th Year Attorney)	\$400	59.9	\$23,960.00
Paralegals	\$175	23.5	\$4,112.50
Total Lodestar			\$131,272.50

33. My proposed hourly rate of \$750, Ms. Nguyen's proposed hourly rate of \$650, Mr. Haines' proposed hourly rate of \$650, and Ms. Moore's proposed hourly rate of \$400 are reasonable in light of our respective skills, wage and hour class action litigation experience, reputation, and fee awards to other attorneys of similar experience in California. Moreover, our requested hourly rates are in line with the *Laffey Matrix*, a true and correct copy of which is attached hereto as **Exhibit C**.

34. The attorneys' fee award requested is consistent with those routinely awarded by California superior courts. California superior courts frequently grant common fund awards of 33%. *See, e.g., Ochoa v. Haralambos Beverage Co.*, No. BC319588 (Super. Ct., Los Angeles County, Feb. 1, 2007) (33.3% fee award with no mention of lodestar crosscheck); *Jones v. Alliance Imaging, Inc.*, No. RG05210418 (Super. Ct., Alameda County, Nov. 27, 2006) (33% fee award with no mention of lodestar crosscheck); *Wisniewski v. Pacific Maritime Assoc.*, No. BC293134 (Super. Ct., Los Angeles County, Nov. 20, 2006) (30.7% fee award from \$12.9 million settlement with no mention of lodestar crosscheck); *Garcia v. Save Mart Supermarkets*, No. 312026 (Super. Ct., Stanislaus County, Aug. 3, 2004) (33% fee award with no mention of lodestar crosscheck); *Terrell v. Ocean's 11 Casino, Inc.*, No. GIC795732 (Super. Ct., San Diego County, Feb. 10, 2004) (approving 33% fee award); *Big Lots Overtime Cases*, JCC Proceeding No. 4283, San Bernardino County Superior Court, Feb 4, 2004) (approving a 33% fee recovery); *Tokar v. GEICO*, (San Diego Superior Court, No. GIC 810166, July

9, 2004) (approving award of 33-1/3%); *Davis v. The Money Store, Inc.*, (San Diego County Superior Court, No. 99AS01716, December 26, 2000) (33-13% of the settlement).

35. Indeed, numerous courts have awarded attorneys' fees of up to, or in excess of 40% of the common fund. *Ammari Electronics, et al. v. Pacific Bell Directory*, Alameda County Sup. Ct., Case No. RG05198014 (awarded 43.8%) (2015); *In re California Indirect Purchaser X Ray Film Antitrust Litigation*, San Francisco Sup. Ct. 1998 (citing *Abzug v. Kerkorian*, Los Angeles Sup. Ct., Nov. 19, 1990, Case No. CA-00981 (45%) and *Haitz v. Meyer*, Alameda County Sup. Ct., August 20, 1990, Case No. 5729683 (45%)); *Hall v. Cinema 7, Inc.*, San Francisco Sup. Ct., July 16, 2008, Case No. CGC-01-409105 (53%); and *Rundberg v. Intrawest Napa Dev. Co.*, Napa County Sup. Ct., January 15, 2014, Case No. 26-56886 (40%).

36. Being a private law practice my firm can only properly litigate a limited number of cases at one time. The professional demands of this case were significant, including a significant number of hours of attorney and paralegal time. This litigation precluded my firm from other employment due to the time and financial commitments required by the case. Indeed, because my firm takes on cases on a purely contingency fee, we are only compensated for our time if we successfully settle a case or prevail at trial. Accordingly, I believe the requested fees are reasonable.

37. The requested enhancement payment to Plaintiff of \$5,000.00 is also reasonable given Plaintiff's efforts in this case and the risks he undertook on behalf of Settlement Class members. Plaintiff gathered documents for use in the lawsuit, and attended in person/telephonic meetings with Class Counsel discussing the case, the merits, the defenses, and the overall fairness of the settlement reached. Thus, the enhancement payment to Plaintiff is appropriate and justified as part of the Settlement and should be finally approved.

38. Plaintiff served the proposed Settlement Agreement on the California Labor & Workforce Development Agency ("LWDA") on June 4, 2020, the same date as he filed his Motion for Preliminary Approval. A true and correct copy of the email generated by the LWDA website after Plaintiff submitted the Settlement Agreement to the LWDA is attached hereto as **Exhibit D**.

39. Plaintiff served the Order Granting Preliminary Approval on the LWDA on October 5, 2020. A true and correct copy of the email generated by the LWDA website after Plaintiff submitted the order Granting Preliminary Approval to the LWDA is attached hereto as **Exhibit E**.

40. Plaintiff has provided written approval of the split of attorneys' fees in this action: 46.5% to Haines Law Group, APC, 31% to Lidman Law, APC, and 22.5% to Michael Burgis & Associates, P.C. Michael Burgis & Associates, P.C. is the referring attorney.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 7, 2020, at El Segundo, California.


Scott M. Lidman

EXHIBIT A

EXHIBIT A

ORIGINAL

FAXED

FILED
Superior Court of California
County of Los Angeles

JUL 06 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Aldwin Lim Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOZARO BOR, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

ALEXANDER ANDREW, INC. dba
FALLTECH., a California corporation; and
DOES 1 through 100,

Defendants.

Case No. 19STCV26589

*[Assigned for All Purposes to the Hon.
William F. Highberger, Dept. SSC-10]*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 26, 2020
Time: 10:00 a.m.
Dept.: SSC-10

Complaint Filed: July 31, 2019
Trial Date: None Set

RECEIVED
LOS ANGELES SUPERIOR COURT

JUN 04 2020

I. LOVO

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

1 The Motion of Plaintiff Lazaro Bor ("Plaintiff") for Preliminary Approval of Class Action
2 Settlement will come on regularly for hearing before this Court on June 26, 2020 at 10:00 a.m. The
3 Court, having considered the proposed Stipulation and Settlement of Class and Representative Action
4 (the "Settlement"), attached as Exhibit A to the Declaration of Scott M. Lidman filed concurrently with
5 the Motion; having considered Plaintiff's Motion for Preliminary Approval of Class Action Settlement,
6 Memorandum of Points and Authorities in support thereof, and supporting declarations filed therewith;
7 and good cause appearing, HEREBY ORDERS THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set forth in
9 the Settlement and finds its terms to be within the range of reasonableness of a settlement that ultimately
10 could be granted approval by the Court at a Final Fairness Hearing. For purposes of the Settlement,
11 the Court finds that the proposed Settlement Class is ascertainable and that there are a sufficiently well-
12 defined community of interest among the members of the Settlement Class in questions of law and fact.
13 Therefore, for settlement purposes only, the Court grants conditional certification of the following

14 Settlement Class:

15 All current and former non-exempt employees employed by Defendant
16 Alexander Andrew, Inc., dba FallTech in the State of California during the
period of July 31, 2015 through June 26, 2020 ~~or the date of Preliminary~~
~~Approval of this Settlement, whichever occurs sooner.~~

17
18 2. The Proposed First Amended Complaint attached to the Settlement as Exhibit 2 hereby
19 approved and shall be filed by Plaintiff within five (5) court days of this Order being signed by the Court.

20 3. For purposes of the Settlement, the Court designates named Plaintiff Lazaro Bor as Class
21 Representative, and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and
22 Paul Haines of Haines Law Group, APC as Class Counsel.

23 4. The Court designates CPT Group, Inc. as the third-party Settlement Administrator for
24 mailing notices.

25 5. The Court approves, as to form and content, the proposed Legal Notice, which is attached
26 to the Settlement as Exhibit 1. *Joint Stipulation filed 7/6/2020*

27 6. The Court finds that the form of notice to the Settlement Class regarding the pendency of
28 the action and of the Settlement, and the methods of giving notice to members of the Settlement Class,

1 constitutes the best notice practicable under the circumstances, and constitute valid, due, and sufficient
2 notice to all members of the Settlement Class. The form and method of giving notice complies fully
3 with the requirements of California Code of Civil Procedure section 382, California Civil Code section
4 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and
5 other applicable law.

6 7. The Court further approves the procedures for Settlement Class Members to opt out of or
7 object to the Settlement, as set forth in the Class Notice.

8 8. The procedures and requirements for filing objections in connection with the Final
9 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
10 presentation of any Settlement Class Member's objection to the Settlement, in accordance with the due
11 process rights of all Settlement Class Members.

12 9. The Court directs the Settlement Administrator to mail the Notice Packet to the members
13 of the Settlement Class in accordance with the terms of the Settlement.

14 10. The Class Notice shall provide at least 60 calendar days' notice for members of the
15 Settlement Class to opt out of, or object to, the Settlement.

16 11. The Final Fairness Hearing on the question of whether the Settlement should be finally
17 approved as fair, reasonable, and adequate is scheduled in Department SSC-10 of this Court, located at
18 312 N. Spring Street, Los Angeles, California 90012 on Nov. 4, 2020 at 11 a.m. /
19 2 p.m.

20 12. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement should
21 be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment
22 granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for
23 reasonable attorneys' fees, reimbursement of litigation expenses, enhancement payment to Plaintiff, and
24 payment to the Labor and Workforce Development Agency ("LWDA") for penalties under the Labor
25 Code Private Attorneys General Act ("PAGA") should be granted.

26 13. Counsel for the parties shall file memoranda, declarations, or other statements and
27 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation
28 expenses, Plaintiff's service award, settlement administration costs, and payment to the LWDA for

PAGA penalties prior to the Final Fairness Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

14. An implementation schedule is below:

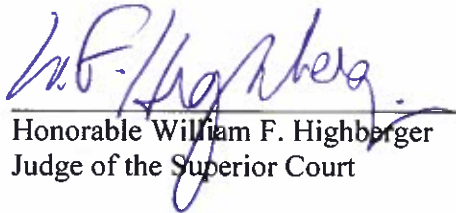
Event	Date	Actual Date ¹
Defendant to provide Class Data to Settlement Administrator	14 calendar days after issuance of the preliminary approval order	July 16, 2020 20
Settlement Administrator to mail Notice Packets to Class Members	7 calendar days after receiving Class Information from Defendant	July 17, 2020 27
Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	60 calendar days after mailing of the Notice by the Settlement Administrator	September 15, 2020 25
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	c	Oct. 9, 2020
Final Fairness Hearing:	Nov. 4, 2020	11 am

15. Pending the Final Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

IT IS SO ORDERED.

Dated: 7/6, 2020


Honorable William F. Highberger
Judge of the Superior Court

¹ These dates are based on the Court granting preliminary approval at the hearing, currently noticed for June 26, 2020.

EXHIBIT B

EXHIBIT B

Expense Summary
Lozano Bor v. Alexander Andrew, Inc. dba FallTech

EXPENSE	AMOUNT
Mediation Costs (including travel to/from)	\$7,593.95
Expert Expenses	\$8,949.00
Filing, Service, and Messenger Fees	\$2,574.13
Copying Costs	\$135.75
Postage Costs	\$83.60
Traveling to/from court hearings	\$33.26
Anticipated Costs for filing FA motion, LACourtConnect appearances, quarterly Case Anywhere fees for Class Counsel through the date the final distribution declaration is filed, service fees, copying and postage	\$1,000.00
TOTAL:	\$20,369.69

EXHIBIT C

EXHIBIT C

LAFFEY MATRIX

[History](#)
[Case Law](#)
[Expert Opinions](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)
[Links](#)

<tr>

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389

6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., McDowell v. District of Columbia, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); Salazar v. Dist. of Col., 123 F.Supp.2d 8 (D.D.C. 2000).

* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT D

EXHIBIT D

Dana Joudi

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Thursday, June 4, 2020 9:03 AM
To: Dana Joudi
Subject: Thank you for your Proposed Settlement Submission

06/04/2020 09:02:32 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

*Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".
Search for PAGA Case number*

Your Information (Person Who is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Court and Hearing Information

Court *

Court Case Number *

Hearing Date (if any)

Hearing Time

Hearing Location

Number of aggrieved employees *

Gross settlement amount *

650000

Gross penalty amount *

20000

Penalties to LWDA *

15000

Date of proposed settlement *

03/27/2020

Proposed Settlement and Other Documents

Proposed Settlement *

 2020-03-27 Fa...e Action.pdf

Other Attachment (if any)

 No file chosen[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

EXHIBIT E

EXHIBIT E

Dana Joudi

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Monday, October 5, 2020 2:59 PM
To: Dana Joudi
Subject: Thank you for your Court Order/Judgment Submission

10/05/2020 02:58:41 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Order/Judgment

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Court Order or Judgment in PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".

[Search for PAGA Case number](#)

Your Information (Person Who is Filing)

Your First Name *

Scott

Your Last Name *

Lidman

Your Email Address *

djoudi@lidmanlaw.com

Your Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite

Your Mobile Phone Number

Your City *

El Segundo

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

90245

Court Case Name and Plaintiff Information

Court Case Name

Bor v. Falltech

Plaintiff Name

Lazaro Bor

Order or Judgment Details

Gross settlement amount *

650000

Gross penalties *

20000

Penalties to LWDA *

15000

Fee award *

216666.67

Court Order, Judgment File and Other Files

Court Order or Judgment * 2020-07-06 O...Approval.pdf**Other Attachment** No file chosen[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.