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Counsel for Plaintiff Luben Romanov, on behalf of
himself and all others similarly situated

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LUBEN ROMANOV, on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

AMAZON.COM SERVICES, LLC
a Delaware limited liability
company; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 2:20-cv-02692 SB (KSx)

CLASS ACTION

**DECLARATION OF MARC H.
PHELPS IN SUPPORT OF MOTION
FOR ORDER GRANTING AWARD
OF ATTORNEYS' FEES, COSTS,
SERVICE PAYMENT, AND
ADMINISTRATION EXPENSES**

DECLARATION OF MARC H. PHELPS

I, Marc H. Phelps, hereby declare:

1. I am an attorney duly licensed to practice law in all courts in the State of California and am principal and founder of The Phelps Law Group, counsel for Plaintiffs and proposed Class Representative Luben Romanov ("Plaintiff"), on behalf of himself and all others similarly situated hourly, non-exempt employees of Defendant, Amazon.com Services, LLC ("Defendant" or "Amazon").

2. I submitted a declaration in support of Plaintiff's Motion for Preliminary Approval detailing my qualifications, background and contributions. For the convenience of the Court, those sections are repeated here at ¶¶ 3-12.

3. I am admitted, in good standing, to practice as an attorney before this Court. I have never been subject to discipline by the State Bar of California.

4. I am a 2004 graduate of The University of Southern California Law School. While in law school, I was a participant in and an editor of the Interdisciplinary Law Journal. I served as a law clerk for the Hon. Ronni MacLaren, and performed a summer associate job with the large, multinational firm Paul, Hastings, Janofsky and Walker. I received a Bachelor's degree *magna cum laude* from Amherst College in 1998.

5. From 2004-2008, I worked for Paul, Hastings, Janofsky and Walker as an associate in the Los Angeles office's Labor and Employment Department. From 2008-2009, I worked for Bryan Cave as an associate in the Santa Monica office's Litigation Department. In March 2009, I started The Phelps Law Group, specializing in Plaintiffs' employment litigation.

6. Both as an employment defense and plaintiffs' attorney, I have achieved successful outcomes for numerous clients. As a plaintiffs' attorney, I have achieved excellent results for multiple clients seeking recovery for unpaid wages (including overtime), pay stub violations, meal and rest period premium pay, and unreimbursed business expenses in individual cases as well as in representative

actions brought pursuant to the Private Attorney Generals' Act ("PAGA") actions and class action matters.

7. The Phelps Law Group has co-counseled with The Carter Law Firm on multiple wage and hour class action cases, and has also co-counseled with Cohelan, Khoury & Singer. The firm has successfully resolved cases involving failure to pay wages for hours worked, overtime, and failure to pay meal and rest period premium pay. *See e.g., Harchegani v. Cellco Partnership, Inc. dba Verizon Wireless*, Case No. 37-2017-00019977 (2017) (inaccurate itemized pay statements); *Jones v. Abercrombie & Fitch Trading Co., et. al.*, No. 2:15-cv-001050-JGB-E (Hon. Jesus G. Bernal) (failure to pay reporting time pay/unpaid wages) (C.D. 2018); *Bui, et al. v. Sprint Corporation, et al.* Case No. 2:14-CV-02461-TLN-AC (Hon. Troy L. Nunley) (E.D. 2016) (unpaid wages, failure to reimburse for business expenses); *Hernandez v. HRM Restaurant Management, Inc.*, Case No. 30-2012-00616819-CU-OE-CXC (2015) (failure to pay wages for hours worked); *Cerami, et. al. v. Metlife, Inc.*, Case No. 11-CV-00681-CJC (MLG) (2013) (failure to pay wages for hours worked due to misclassification of mortgage loan employees); *Plows, et al. v. Rockwell Collins, Inc.* Case No. SACV 10-1936 DOC (MANx) (2012) (failure to pay wages for hours worked due to misclassification of high tech employees); *Carney v. Hillstone Restaurant Group, Inc.*, Case No. CV10-2988 (2011) (failure to pay wages for hours worked, failure to reimburse for business expenses); *Kohlenberg v. Lululemon, Inc.*, Case No. 30-2009000255551 (2010) (same); *Rivero v. Schafer Ambulance*, Case No. BC 425838 (2011) (unpaid overtime); *Mercado et. al. v. Gate Gourmet, Inc.*, Case No. CV07-2305JHN (CWX) (2011) (meal and rest period premium pay claims); *Dunn v. The Kroger Company*, Case No. BC323252 (2012) (meal and rest period premium pay claims).

8. I have been appointed as class counsel or co-class counsel in multiple wage and hour class actions in state and federal courts. Within the past eleven years, I have served as class counsel on cases that have resulted in substantial monetary

1 recoveries for thousands of California employees. My firm is currently prosecuting
2 (along with other counsel) multiple wage and hour class and PAGA actions in state
3 and federal courts throughout California.

4 9. I have litigated cases involving the same types of issues raised in this
5 case – i.e. unpaid wages claims, meal and rest period violations, failure to provide
6 reimbursement for business expenses claims, and derivative claims, in numerous
7 industries.

8 10. I am well-versed in the facts of this case and the law that applies to the
9 claims asserted. In addition to my knowledge of applicable existing case law,
10 statutes, and regulations, I spent considerable effort during the litigation researching
11 other cases involving these issues.

12 11. Specifically, on or about January 13, 2020, my firm and The Carter
13 Law Firm were retained by Luben Romanov to represent him against his employer
14 Amazon.com Services, LLC. (“AMZN”). I spent considerable time conferring with
15 Mr. Romanov and assessing the viability of a lawsuit, including researching other
16 pending cases against Amazon, conducting extensive legal research regarding
17 claims to be asserted, and reading reports regarding Amazon’s treatment of its
18 drivers. Once Mr. Carter and I had decided that a lawsuit was viable, we agreed to
19 associate the law firm of Cohelan Khoury & Singer to assist with the prosecution
20 of this case, with Michael Singer, being the lead attorney. While Cohelan, Khoury
21 & Singer were the lead counsel, I continued to assist in the prosecution of the action,
22 by filing the complaint, sending the notice to the Labor and Workforce
23 Development Agency to initiate the PAGA action, speaking with other drivers
24 about their experiences, reviewing Defendant’s removal papers and determining
25 whether a basis for a motion to remand existed, preparing initial disclosures
26 (including correspondence with Mr. Romanov regarding the same), preparing the
27 initial Rule 26(f) statement, assisting in the preparation of written discovery,
28 reviewing Defendant’s discovery responses including participation in the meet and

1 confer process. I also helped with mediation preparation, and attended the
2 mediation. I have been the primary point of contact with Mr. Romanov and assisted
3 with contact with putative class members following dissemination of the class
4 notice.

5 12. My firm will continue to dedicate the necessary resources, both in
6 terms of money and time, to properly, aggressively, and efficiently prosecute this
7 case on behalf of the putative class.

8 13. Mr. Romanov was an excellent class representative and I believe that
9 he should be awarded the full \$10,000 enhancement requested. Mr. Romanov
10 worked a great deal on this case as detailed in his declaration (37 hours spent on a
11 wide range of tasks¹), and I can attest to many of those hours because they were
12 spent conferring with me or in rounding up documents or doing research that I
13 directed him to perform. Mr. Romanov was an exceptionally involved class
14 representative compared to most that I have worked with, as he always stayed on
15 top of the progress of the case and we frequently discussed its status and
16 developments. Mr. Romanov stayed abreast of happenings at Amazon even once he
17 had left the company, and he let me know what was taking place on the ground. Mr.
18 Romanov also did his own research on the case – taking a genuine interest in the
19 applicable law. More than once I secretly wondered if he would have thrived in law
20 school. It is never a beneficial thing to apply one's name to a class action lawsuit in
21 terms of future work opportunities, and Mr. Romanov (whose unique name is likely
22 to appear in web searches, especially for a case against a high profile company like
23 Amazon) will forever be able to be searched in this vein. Moreover, we are living
24 in a time of rampant inflation where money simply does not go as far as it did a year
25 or two ago. Once Mr. Romanov pays California and Federal taxes on even a \$10,000
26 reward, what is left will not take him far. Indeed, I have noticed that potential new
27

28 ¹ It was anticipated that Mr. Romanov would file an additional declaration detailing work done following his previous declaration. However, no class members contacted Mr. Romanov following that point and he has therefore not been called upon to work additional hours, other than briefly conferring with me.

1 clients are more reluctant than ever to assume class representative roles in 2021-22.
2 While it is pure speculation on my part, we may be witnessing something of a “great
3 resignation” when it comes to wanting to participate in litigation as well as in the
4 workplace. Increased wages, low unemployment, increasing reliance by employers
5 and peers on background and web searches, lessening idealism and high inflation
6 may render the traditional \$5000 enhancement a prospect that workers simply won’t
7 want to pursue if they need to risk their name showing up in a web search as a
8 “litigant” anymore. The class action remains an important device to deter bad
9 employer behavior and enforce workers’ rights, and part of that is to incentivize
10 employees to file the cases.

11 14. Plaintiffs’ Counsel are seeking a fee award in an amount up to 33 1/3%
12 of the gross settlement fund. This is above the Ninth Circuit “benchmark” of 25%,
13 but I believe that this request is fair and reasonable for the reasons set forth in
14 Plaintiffs’ Counsels’ motion. Moreover, here, Amazon turned out to have followed
15 the law in several ways, including by automatically paying out meal period
16 penalties, which drastically limited the scope of the recovery and rendered the result
17 an excellent one for the Class Members. This is a circumstance which was
18 ascertained well into discovery and therefore gives illustration to the fact that when
19 counsel take cases on a contingency basis against large employers like Amazon with
20 skilled counsel, a commitment is made to putting in significant hours at the expense
21 of other cases with no guarantee of a significant (if any) recovery. A one size fits
22 all “benchmark” award is not always ideal – and this case is a prime example of
23 why. Had Amazon say not paid out meal period penalties, the case likely would
24 have settled significantly higher yet with no more work expended by counsel. In
25 that circumstance, the same amount and quality of work with a 25% fee award
26 applied would almost certainly dwarf the requested 33 1/3% fee award here – yet
27 rest on a factor beyond counsels’ control (whether Defendant paid penalties or not).
28 Because the requested award is commensurate with the hours worked by counsel

1 on the case and an excellent result for Class Members given the facts, counsel
2 respectfully requests that 33 1/3% be awarded.

3 15. I worked a total of 73.4 hours on this case (3 of these are estimated
4 future hours through the close of the case). My timesheet detailing these hours is
5 attached as Exhibit A to this declaration. My hourly rate is \$600 which is
6 commensurate with the rates charged by defense firms for an attorney with 17 years
7 of experience and has been approved by multiple state and federal courts in class
8 actions and PAGA cases.

9 16. This case was litigated during the height of the COVID-19 pandemic
10 and accordingly, costs were very limited due to no in-person appearances and
11 depositions. The Phelps Law Group incurred \$177.50 in costs in this action (\$75
12 share of filing fees and \$102.50 in copies and scans).

13 I declare under penalty of perjury under the laws of the State of California
14 that the foregoing is true and correct and that this Declaration was executed on
15 January 25, 2022, at Newport Beach, California.

16 DocuSigned by:
17 *Marc Phelps*
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MARC H. PHELPS