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Attorneys for Plaintiffs
SHAYNIA VERNON and BENJAMIN CASTANEDA-RIVERA

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

SHAYNIA VERNON, as an individual and on
behalf of all others similarly situated;
BENJAMIN CASTANEDA-RIVERA, as an
individual and on behalf of all others similarly
situated,

Plaintiffs,

vs.

MCLANE/SUNEAST, INC., a Texas
corporation; MCLANE FOODSERVICE,
INC., a Texas corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CIVSB2123367

[Assigned for all Purposes to Hon. David Cohn,
Dept. S-26]

**DECLARATION OF NICHOLAS
ROSENTHAL IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: December 23, 2022

Time: 10:00 a.m.

Dept.: S-26

Complaint Filed: August 12, 2021

FAC Filed: September 8, 2022

Trial Date: None Set

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I, Nicholas Rosenthal, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Named Plaintiffs Shaynia Vernon and Benjamin Castaneda-Rivera (collectively, “Plaintiffs”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The Stipulation for Leave to File First Amended Complaint and Settlement and Release of Class Action and PAGA Claims (“Settlement Agreement”) was the product of negotiation between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research which they had carefully analyzed. Class Counsel engaged in extensive factual investigation before settling, including reviewing class data produced by Defendants relating to the number of overtime wage statements issued to each putative class member. This allowed Plaintiffs to conduct a full damage analysis. I support the settlement as fair, reasonable, and adequate, and in the best interest of the Class.

3. I am one of the primary attorneys on this matter. My qualifications are as follows: I received my J.D. from University of Southern California Gould School of Law in 2009. Upon graduation, I practiced law as an associate at Seyfarth Shaw LLP, representing corporate clients in both single-plaintiff and wage hour class actions. In 2014, I began as an associate at Diversity Law Group.

4. I have been certified as class counsel in a number of cases, including *Diller v. Under Armour Retail, Inc.*, Santa Clara County Superior Court Case No. 114-CV-265729, *Dall v. Post Alarm Systems*, Los Angeles County Superior Court Case No. BC598528, *Lopez v. Imperial Body Shop, Inc.*, Orange County Superior Court Case No. Case No. 30-2015-00816193-CU-OE-CXC, *Hughes v. Lincare, Inc., et al.*, Monterey County Superior Court Case No. M124764, *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132, *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing Association*, Alameda County

4. I have been certified as class counsel in a number of cases, including *Diller v. Under Armour Retail, Inc.*, Santa Clara County Superior Court Case No. 114-CV-265729, *Dall v. Post Alarm Systems*, Los Angeles County Superior Court Case No. BC598528, *Lopez v. Imperial Body Shop, Inc.*, Orange County Superior Court Case No. Case No. 30-2015-00816193-CU-OE-CXC, *Hughes v. Lincare, Inc., et al.*, Monterey County Superior Court Case No. M124764, *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132, *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing Association*, Alameda County

1 Superior Court Case No. RG18908139, *Morones v. Bimbo Bakeries USA, Inc.*, Sacramento
2 County Superior Court Case No. 34-2018-00245481-CU-OE-GDS, *Chavez v. Converse, Inc.*,
3 United States District Court – Northern District of California Case No. 15-cv-03746-NC, and
4 *Rodriguez v. Nike Retail Services, Inc.*, United States District Court – Northern District of
5 California Case No. 5:14-CV-1508 BLF.

6 5. To date, I have incurred approximately 36.20 hours in connection with the
7 litigation of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred
8 to date.

9 6. I also anticipate spending an additional 5 hours conferring and reviewing e-mails
10 and other written communications with counsel for Defendant, the Settlement Administrator, and
11 Class Members regarding post final approval matters, including payments and related issues.

12 7. The total lodestar for my hours will be approximately \$28,840 based on an hourly
13 rate of \$700.00 per hour (41.20 hours x \$700). I have been approved previously at a rate of
14 \$650.00 by various courts, including: *Pittman v. Martinez Steel Corporation*, San Bernardino
15 County Superior Court Case No. CIVDS1823132, *Della Maggiora v. Watsonville Community*
16 *Hospital*, Santa Cruz County Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing*
17 *Association*, Alameda County Superior Court Case No. RG18908139, *Morones v. Bimbo*
18 *Bakeries USA, Inc.*, Sacramento County Superior Court Case No. 34-2018-00245481-CU-OE-
19 GDS *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365;
20 *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144;
21 *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior Court Case No. 19CV341582; *Siron*
22 *v. Raypak, Inc.*, Ventura Superior Court Case No. 56-2019-005279959-CU-OE-VTA; *Carter v.*
23 *Kline Services, Inc.*, San Bernardino Superior Court Case No. CIVDS1828867; *Pascual v.*
24 *Satellite Healthcare, Inc.*, Santa Clara County Superior Court Case No. 19CV345211; *Carrillo v.*
25 *New Balance Athletics, Inc.*, Santa Clara County Superior Court Case No. 19CV352469; *Vogel v.*
26 *Veolia North America, LLC*, Monterey County Superior Court Case No. 19CV001443; *Holman*
27 *v. American Sugar Refining, Inc.*, Contra Costa County Superior Court Case No. MSC18-00415;
28 and *Chavez v. Converse, Inc.*, United States District Court, Northern District of California Case

1 No. 15-cv-03746-NC.

2 8. As of January 1, 2022, my hourly rate increased to \$700.00. I have been approved
3 at the \$700.00 rate in *Gutierrez v. Spa Havens, LP*, San Diego Superior Court Case No. 37-2019-
4 00057065-CU-OE-NC; *Cruzado v. Ontario T, Inc.*, San Bernardino Superior Court Case No.
5 CIVSB2027249; *Ray v. C&W Facility Services, Inc.*, San Bernardino Superior Court Case No.
6 CIVSB2101321; *Alvarez v. Forterra Building Products*, San Diego Superior Court Case No. 37-
7 2020-00018179-CU-OE-CTL; *Dunn v. Universal Plant Services of California, Inc.*, Solano
8 County Superior Court Case No. FCS056134, *Pulido v. Georgia-Pacific Corrugated III LLC*,
9 Fresno Superior Court Case No. 18CECG00265; and *In re: FPI Management Wage and Hour*
10 *Cases*, Los Angeles Superior Court Case No. JCCP5050.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct.

13 Executed on this 1st day of December 2022, at Los Angeles, California.

14
15 
16 Nicholas Rosenthal

EXHIBIT A

Vernon/Castaneda-Rivera v. McLane/Suneast
Time and Task Chart for Kristen M. Agnew

Hours	Description of Work
4.90	Initial research and review of background facts in preparation for filing of <i>Shaynia Vernon v. McLane Foodservice, Inc.</i> , Case No. RIC2000406 (“ <i>Vernon</i> Action”); confer with co-counsel re theories of liability and conduct research re same.
2.50	Draft PAGA letter and <i>Vernon</i> Complaint.
1.30	Draft request for informal discovery in <i>Vernon</i> Action; meet and confer with defense counsel re wage statement count for putative class members; review and analyze exemplar wage statements.
1.70	Meet and confer with defense counsel re initial status conference in <i>Vernon</i> Action; draft and revise initial joint report.
.90	Draft First Amend Class and Representative Action Complaint in <i>Vernon</i> Action.
2.20	Meet and confer with defense counsel re June 29, 2020 status conference in <i>Vernon</i> Action; draft and revise joint report.
1.50	Draft PAGA letter and complaint in <i>Benjamin Castaneda-Rivera v. McLane/Suneast, Inc.</i> , Case No. CIVDS2017663; confer with co-counsel re theories of liability and conduct research re same.
3.30	Meet and confer with defense counsel re initial status conference in <i>Castaneda-Rivera</i> ; draft initial joint report; prepare for and appear at initial status conference.
3.80	Meet and confer with defense counsel re consolidation of the <i>Vernon</i> Action and <i>Castaneda-Rivera</i> ; draft proposed consolidated FAC; draft joint stipulation to consolidate the cases; meet and confer with defense counsel re proposed FAC and revisions to joint stipulation; confer with co-counsel re same.
6.20	Conduct legal research re statute of limitations and relation back; prepare memorandum to file re same; meet and confer with defense counsel re joint stipulation re statute of limitations; draft joint stipulation.
1.10	Meet and confer with defense counsel re request for dismissal of <i>Vernon</i> Action; draft proposed request for dismissal.
5.40	Review Defendant’s Notice of Removal of <i>Castaneda-Rivera</i> (“Federal Action”); conduct legal research re grounds for remand; prepare memorandum to file re same; confer with co-counsel re litigation strategy in federal court.
2.90	Meet and confer with defense counsel re motion to dismiss FAC in Federal Action and extension of responsive pleading deadline; draft joint stipulation to continue responsive pleading deadline and leave to file SAC in Federal

	Action; draft proposed SAC in Federal Action; confer with co-counsel re same.
4.70	Review order setting scheduling conference in Federal Action; meet and confer with defense counsel regarding Rule 26(f) Joint Report; draft Plaintiff's portion of joint report; confer with co-counsel re same; prepare for and appear at scheduling conference in Federal Action
2.80	Draft initial disclosures in Federal Action; analysis and strategy re discovery needed in Federal Action.
2.10	Draft requests for production of documents and interrogatories in Federal Action.
3.00	Conduct legal research re penalties for non-payment of meal/rest period premiums at regular rate of pay; review and analyze Plaintiffs' wage statements re payment of meal/rest period premiums; confer with co-counsel re new theory of liability.
4.90	Draft class action complaint in <i>Shaynia Vernon and Benjamin Castaneda-Rivera v. McLane/Suneast, Inc. and McLane Foodservice, Inc.</i> , Case No. CIVSB2123367 ("State Court Class Action") and representative PAGA complaint in <i>Benjamin Castaneda-Rivera v. McLane/Suneast, Inc.</i> , in the San Bernardino County Superior Court, assigned Case No. CIVSB2128980 therein (the "State Court PAGA Action"), alleging underpaid Section 226.7 premiums; confer with co-counsel re revisions to same.
2.20	Meet and confer with defense counsel re mediation of Federal Action, State Court Class Action and PAGA Action; draft and revise data request for mediation.
3.50	Review complaints in related class actions; meet and confer with plaintiffs' counsel in related class actions; confer with co-counsel re same.
2.70	Meet and confer with defense counsel re anticipated motion to consolidate the Federal Action with related class actions; conduct research re grounds to oppose motion; confer with co-counsel re same.
9.20	Draft mediation statement; prepare analysis of liability and damages exposure model; confer with co-counsel re same.
7.60	Prepare for and attend mediation.
10.40	Draft and revise Stipulation for Leave to File First Amended Complaint and Settlement and Release of Class Action and PAGA Claims ("Settlement Agreement" or "Agreement") and exhibits; meet and confer with defense counsel re proposed revisions to Settlement Agreement and exhibits; confer with co-counsel re same.
11.90	Draft Motion for Preliminary Approval of Class and PAGA Settlement and supporting declarations; conduct legal research re same; confer with settlement administrator re declaration in support of preliminary approval; prepare for and appear at preliminary approval hearing; revise notice to class members.

1.20	Confer with administrator re data and administration of settlement; review and finalize class notice; review and respond to calls from class members re settlement.
7.30	Draft Motion for Final Approval of Class and PAGA Settlement and supporting declarations; confer with settlement administrator re declaration re administration of settlement.
111.20	TOTAL HOURS