

HEWGILL COBB LOCKARD, APC

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Attorneys For Plaintiff

ANDREW WARGO

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO - CENTRAL DIVISION**

ANDREW WARGO, an individual,

Plaintiffs,

v.

QUALITY EAST COUNTY, INC. a
California Corporation; QUALITY
CENTRAL, INC. a California Corporation;
RODI INVESTMENTS, INC., a California
Corporation; ANGIES TOWING, INC. a
California Corporation; SUZANNE
ALSADIK, an Individual; and DOES
1 through 25, Inclusive,

Defendants.

Case No.: 37-2020-00017367-CU-OE-CTL

**DECLARATION OF JUSTIN HEWGILL IN
SUPPORT OF PLAINTIFFS' MOTION TO
DISMISS PAGA ACTION WITHOUT
PREJUDICE**

Date: August 8, 2022

Time: 8:30 a.m.

Dept.: C-67

Judge: Hon. Eddie C Sturgeon

Complaint Filed: May 26, 2020

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I, Justin Hewgill, hereby declare and say:

1. I am an attorney duly licensed to practice in California and am a partner at Hewgill Cobb & Lockard, APC, counsel of record for Plaintiffs in this action. The following information is based upon my personal knowledge. If called upon to do so, I could and would competently testify to the truth of the matters stated herein.

2. This Action was filed in May 2020, it involves several individual employment law claims, including claims deriving from what Plaintiff alleges is an illegal termination (disability discrimination and Workers Compensation retaliation), as well as individual wage and hour matters, and a claim under the Private Attorney General Act. In February, 2021, Plaintiff amended his complaint (filed his First Amended Complaint) to add a claim for Negligence, in this instance an uninsured employer claim Labor Code §§ 3706, et seq.

3. The Parties have conducted formal and informal discovery, which includes both written discovery (formal discovery) and the exchange of the Defendants (undiscoverable) financial records.

4. The Parties have had a long hard negotiation on resolution of the individual claims in this matter, being primarily driven by the value and urgency of Plaintiff's personal injury claims. Parties have come to terms on a proposed settlement amount and terms on those individual claims.

5. Plaintiff's PAGA claim is an obstacle to resolution due to the financial constraints of the Defendant and now moves to dismiss the PAGA cause without prejudice. Plaintiff has reviewed the financial records of Defendant and can state, without violating parties' agreement that the Defendant lost money in 2019, and the individual settlement contemplated now between parties represents a significant proportion of the per annum net income the Defendant had in 2021, and 2022. This leads Plaintiff to believe that a PAGA settlement at a value appropriate for the claims would not be possible.

6. The PAGA claim is for penalties for violations subjected to tow truck drivers, however it was discovered through investigation of these claims that the Defendant only ever employs six (6) full time tow truck drivers at a given time, as such even with high turn over the PAGA groups is not more than a couple dozen individuals.

7. On August 2, 2022, I submitted Plaintiff's Motion to Dismiss PAGA Action, along with this declaration, and the Proposed Order to the LWDA and informed the Agency of the date and time of the hearing in this matter.

1 **QUALIFICATIONS OF COUNSEL**

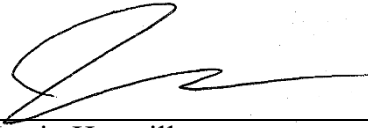
2 8. I have a bachelor's degree from the University of California, Riverside both a BA in Political
3 Science and a BA in Fine Art. I graduated with a Juris Doctorate from the University of California,
4 Berkeley School of Law (formally Boalt Hall), in May of 2008.

5 9. I have been licensed to practice law, and have practiced law in the State of California since
6 December, 2008. In 2015, my partners and I started the law firm, which is now styled Hewgill Cobb
7 Lockard, APC (formally the Law Office of Hewgill and Cobb). I am current an equity partner in this
8 firm. Since starting this firm and prior to that, I have devoted my practice to employment law both
9 wage and hour Class Action and Private Attorney General Act litigation and FEHA matters.

10 10. I successfully represented represent plaintiffs in wage and hour Class Actions in the following
11 matters in the Superior Court for the County of San Diego: 37-2016-00036639-CU-OE-CTL, GATES
12 vs MISSION BAY SPORTS CENTER; 37-2017-00012951-CU-OE-CT, BUCKHANNON vs STONES;
13 (37-2019-00013863-CU-OE-CTL, ASPEYTIA V MA MORTENSON COMPANY. My office currently
14 represents plaintiffs in the wage and hour Class Action 37-2019-00011626-CU-OE-CTL, GUZMAN V
15 ALLAN COMPANY). My office represented intervening plaintiffs, and successfully amended the
16 settlement agreement in 3:16-cv-02162-JLS-NLS, NUNEZ v. BAE SYSTEMS SAN DIEGO SHIP
17 REPAIR INC. Finally, my office also currently represents plaintiffs or successfully represented plaintiffs
18 in the following collective action, Private Attorney General Act (PAGA) matters: 37-2018-00037315-
19 CU-OE-CTL, EBBA vs SHARP HEALTHCARE; 37-2018-00043367-CU-WT-CTL, HERNANDEZ vs
20 CALIFORNIA GAS TRANSPORT INC; and 37-2019-00034623-CU-WT-CTL AGUIRRE vs 860
21 GARNET OPERATIONS; 37-2020-00022617 MARTINEZ vs OMNI HOTELS MANAGEMENT; 37-
22 2020-00033834-CU-OE-CTL, CARBAUGH vs HEALTH IQ; GARCIA vs LUXOTTICA RETAIL
23 NORTH AMERICA; 20-CV-1241-AJB-WVG SCALICE vs SALES PARTNERSHIP, INC.; 37-2020-
24 0032941-CU-OE-CTL SCHLUTER vs BELLA BABY SOCAL, LLC.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is
26 true and correct. Executed at San Diego, California, on August 2, 2022
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HEWGILL, COBB & LOCKARD

By: 
Justin Hewgill
Attorneys for Plaintiffs