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Attorneys for Plaintiffs
MARGARET RIVERA, KAY MANALIGOD,
and CHRISTINE ATENCIO

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

MARGARET RIVERA, KAY MANALIGOD,
and CHRISTINE ATENCIO, on behalf of
themselves and all others similarly situated,
all Aggrieved employees, and the State of
California,

Plaintiffs,

vs.

HOME CARE ASSISTANCE, INC., HOME
CARE ASSISTANCE OF CALIFORNIA,
LLC, HOME CARE ASSISTANCE, LLC,
HOME CARE ASSISTANCE
MANAGEMENT, LLC, HOME CARE
ASSISTANCE HOLDINGS LLC, and DOES
5 through 25,

Defendants.

Case No. RG20058229

CLASS AND REPRESENTATIVE
ACTION

ASSIGNED FOR ALL PURPOSES TO
DEPARTMENT 17

**DECLARATION OF RICHARD A.
HOYER SUPPORTING MOTION FOR
FINAL APPROVAL OF
SETTLEMENT**

Date: April 28, 2022

Time: 3:30 p.m.

Dept.: 17

Reservation No.: A-20058229-001

I, Richard A. Hoyer, declare as follows:

1. I am an attorney licensed to practice law in the state of California, the principal of
Hoyer & Hicks ("HH") and one of the attorneys of record for Plaintiff in the above-entitled

1 action. I make this declaration based on my personal knowledge and if called upon to do so,
2 could and would competently testify to the contents hereof.

3 2. I have practiced litigation in San Francisco since 1990. I have a Bachelor of Arts
4 degree from Northwestern University (1987) and a Law Degree from Georgetown (1990). I
5 was a commercial litigator at what is now called Pillsbury Winthrop (1990-1993) and an
6 employment litigator at Epstein, Becker & Green (1993-1997), which are both national firms.
7 I was a partner at Whitehead, Porter & Gordon LLP from 1997 to 2001.

8 3. Since 1993, I have focused almost exclusively on employment disputes. Since 2002,
9 over ninety percent of my clients have been plaintiffs in employment cases. Specifically, I
10 have represented clients with claims of sexual discrimination and harassment, racial
11 discrimination and harassment, employment retaliation, and wage and hour disputes. Since
12 2002, I have had my own firm, currently doing business as Hoyer & Hicks.

13 4. Hoyer & Hicks has acted or are acting as class counsel in numerous cases. A partial
14 list of class actions in which I or Hoyer & Hicks were counsel includes: *Butler v. Home Depot*,
15 (N.D.Cal. Case No. C-94-4335) (representing Defendant in nationwide class action alleging
16 gender discrimination); *Ling, et al. v. Regents* (Alameda Sup. Ct. No. 2001-035654)
17 (represented class members in a race discrimination claim that resulted in class certification
18 and settlement); *Wahid v. Nations Foodservice, Inc.* and *Saavedra v. Nations Foodservice,*
19 *Inc.* (Alameda County Superior Court Nos. RG 05246866 and RG 08421015) (wage and hour
20 class action regarding misclassification of restaurant managers); *Stockwell, et al v. City and*
21 *County of San Francisco*, (N.D.Cal. Case No. C 08-05180 PJH) (disparate impact age
22 discrimination claims on behalf of police officers); *Kauffman v. Bank of America* (D.Kan. Case
23 No. 10-md-2138-JWL-KGS) (wage and hour class action and multidistrict litigation and
24 settlement concerning unpaid wages and overtime and missed meal and rest periods under
25 the FMLA and California law); *In Re: Sanofi-Aventis U.S., Inc. Wage and Hour Litigation*
26 (N.D.Cal. Case Nos. 3:10-CV-04141 SBA; 3:10-CV-04672 SBA) (class of pharmaceutical
27 sales representatives in a state-wide misclassification case); *Neu-Helms v. UHS of Delaware,*
28 *Inc.* (Alameda County Case No. RG08425516) (post- certification settlement of class claims
HOYER DECLARATION SUPPORTING MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT 2

1 regarding missed meal and rest periods for classroom assistants at schools for special needs
2 children); *Al Lahham, et al vs. Serra Medical Transportation*, (N.D.Cal. Case No. 3:12-cv-
3 00355-CRB) (FLSA Collective of drivers deprived of overtime pay and meal and rest breaks);
4 *Okechukwu, et al. vs. DEM* (putative class arbitration representing limousine drivers on
5 claims of unpaid overtime, as well as meal and rest break violations); *Parvataneni, et al. vs.*
6 *E*Trade Financial*, (N.D.Cal. Case No. 3:13-cv-02428-JSW) (statewide representative claims
7 of unpaid overtime for PAGA collective of computer systems employees); *Sanchez-Ramirez*
8 *v. The Consulate General of Mexico in San Francisco* (N.D.Cal. Case No. 4:12-cv-03485-
9 PJH) (represented non-exempt workers on class claims of unpaid overtime and missed
10 breaks); *Asghari, et al. v. Friendly Cab Company, Inc.* (Alameda County Case No.
11 AG11556435) (class settlement on behalf of taxicab drivers alleging improperly assessed
12 processing fees on credit card transactions); *Palm v. Sur la Table, Inc.* (N.D.Cal. Case No.
13 13-cv-1250-JCS) (class settlement of over 2,800 non-exempt retail store employees in
14 California on rest break claims); *Shaghafi v. ValleyCare Health System* (Alameda County
15 Case No. RG12618899) (class settlement of meal and rest period claims on behalf of
16 respiratory therapists); *Jenkins v. Goodwill Industries of the Greater East Bay, Inc.* (Alameda
17 County Case No RG12659632) (class settlement of unpaid wages, overtime, and meal and
18 rest period violations); *Marr v. Poodles, Inc., et al.* (S.F. Sup. Ct. Case No. CGC-14-537154)
19 (class settlement for unpaid wages and missed break premiums); *Oseas DeLeon et al. v.*
20 *Clock Freight International, Inc. et al.* (San Mateo County Case No. CIV-521247) (class
21 settlement of drivers' claims of missed meal and rest periods) *Guilbaud v. Sprint/United*
22 *Management Co. Inc.* (N.D.Cal. Case Nos. 3:13-cv-04357-VC and 3:14-cv-02642-VC) (final
23 approval of class and FLSA settlement for off-the-clock and missed meal and rest period
24 claims on behalf of class and FLSA collective of non exempt retail store employees); Hoyer
25 & Hicks is currently counsel in the following pending wage and hour class/representative
26 actions: *Thomas v. Sonoma Mission Inn Management, et al.* (Sonoma County Case No.
27 SCV-257470) (putative class of massage therapists and estheticians alleging missed meal
28 and rest periods); *Avila v. Cold Spring Granite Corp.* (E.D.Cal. Case No. 1:16-cv-01533-

AWI) (putative class of non-exempt employees alleging unpaid overtime due to non-compliant Alternative Work Schedule); *Villarreal v. Perfection Pet Food* (E.D.Cal. Case No. 1:16-cv-01661-LJO-EPG) (pet food factory workers alleging missed rest and meal periods for shifts exceeding 10 hours); *Coppernoll v. Hamcor Inc.* (N.D.Cal. Case No. 3:16-cv-05936-WHA) (piece-rate automotive service technicians alleging off the clock work, unpaid overtime, missed breaks); *Coppernoll v. Hamcor Inc.* (Alameda County Case No. RG16843171) (parallel PAGA-only state court action); *Ornelas v. Maplebear, Inc. d/b/a Instacart* (Santa Clara Case No. 18CV323046) (PAGA-only claim involving in-store shoppers with meal and rest period, unpaid wages and derivative claims); *Morgan-Cervantes v. Custom House Hotel L.P.* (Monterey County Case No. 18CV000621) (Class action for missed meal and rest periods involving hotel housekeepers); *Wiley v. Maid Complete* (Sacramento County Case No. 2018-00235382) (Class action involving house cleaners misclassified as independent contractors); *Benroth v. Glassybaby, LLC* (Alameda County Case No. HG19045978) (Class/PAGA action involving glassblowers asserting overtime, off the clock, meal/rest period and piecerate pay violations).

5. I, along with my partner, agree that the proposed settlement at this juncture in the sum agreed upon, is in the best interests of the class. Specifically, with respect to the claims in the operative complaint, counsel weighed the prospects of success against the risks of continued litigation, as fully described in the Declaration of Ryan L. Hicks submitted herewith.

THE REASONABLENESS OF CLASS COUNSEL'S HOURLY RATES

6. Class Counsel seek approval of the following rates for the attorneys who worked on this case:

- a. Richard A. Hoyer (partner, 31 years' experience): \$725 per hour.
- b. Ryan L. Hicks (partner, 14 years' experience): \$550 per hour.
- c. Nicole B. Gage (associate, 4 years' experience): \$375 per hour.
- d. Eisha Perry (former associate, 2 years' experience): \$350 per hour.
- e. Law clerks and support staff: \$150 per hour.

1 7. My partner Ryan L. Hicks and former associate Eisha Perry performed the bulk of the
2 work on this case. Mr. Hicks performed tasks appropriate for a partner with his experience
3 level such as drafting pleadings and motions, legal research, drafting research memoranda,
4 client correspondence, preparing case summary materials, communicating with and
5 interviewing putative class members, calculating damages, drafting the mediation brief,
6 meeting and conferring with opposing counsel, meeting with myself and the clients to discuss
7 strategy, and leading the mediation. Mr. Hicks and our associates logged their hours
8 contemporaneously using mobile phone applications called "Time Tracker" and now
9 "Eternity", which enable them to track their tasks by the second in real time.

10 8. Ryan L. Hicks is a partner of HH. Mr. Hicks received his Juris Doctor degree in 2008
11 from the University of California, Hastings College of Law, and has been licensed to practice
12 law in California since that year. Mr. Hicks has an extensive background in employment
13 litigation, and has represented plaintiffs at all levels including the federal and state trial courts,
14 the California Court of Appeal, and the Ninth Circuit Court of Appeals. The litigation of wage
15 and hour class action matters under both state and federal law are a significant part of Mr.
16 Hicks' day-to-day practice. He has been counsel in scores of employment cases filed under
17 various statutes, including the Fair Labor Standards Act, Title VII of the Civil Rights Act of
18 1964, the California Labor Code, the California Fair Employment and Housing Act, and other
19 analogous statutes. Mr. Hicks' hourly rate is \$550.00 per hour, which is within the market
20 range charged by attorneys of comparable experience, expertise and reputation. Mr. Hicks
21 reviewed pleadings, submissions, and correspondence in this action, including the complaint,
22 the motions, the mediation statement, and the preliminary and final approval papers. Mr.
23 Hicks appeared at the mediation session and participated in the subsequent negotiations that
24 resulted in the settlement of this case. Mr. Hicks' hourly rate of \$550 per hour is reasonable
25 given his credentials and experience, which are described in his declaration. Judges
26 throughout California have consistently approved Mr. Hicks' hourly rate. In 2016, in *Javier v.*
27 *Eat24, supra*, Judge Kahn approved Mr. Hicks' hourly rate of \$500/hour. In 2017, in *Thomas*
28 *v. Sonoma Mission Inn Management*, Sonoma County Judge Rene Chouteau approved Mr.

1 Hicks rate of \$500/hour. In 2018, the San Francisco Superior Court approved Mr. Hicks' rate
2 of \$500/hour in *D'sa v. Amber India*. In 2019, Mr. Hicks' rate of \$525 was approved by the
3 Monterey County Superior Court in *Morgan-Cervantes, supra*. In January 2020, Judge
4 Winifred Smith found Mr. Hicks' rate of \$525 per hour reasonable in *Campbell v. AEG*
5 *Management Oakland, LLC* (Alameda Case No. RG17859830). Most recently, just last year
6 Chief Judge Philip Gutierrez of the Central District of California approved Mr. Hicks's then-
7 rate of \$525/hour in *Martinez v. Helzberg's Diamond Shops, Inc, supra*.

8 9. Nicole Gage is an associate at HH. Ms. Gage received her B.A. from Emory University
9 in 2014. In 2017, she received her Juris Doctor degree from Duke University School of Law,
10 and has worked for HH since that time. Ms. Gage's rate is \$375.00 per hour which is in line
11 with associates in the Bay Area with similar qualifications and experience. Ms. Gage
12 performed PCM outreach, research, translations, and assisted with the preliminary and final
13 approval papers in this case.

14 10. Eisha Perry was formerly an associate at HH. Ms. Perry's practice focused on wage
15 and hour class actions and employment litigation while employed by HH. Ms. Perry received
16 her B.A. from Loyola Marymount University in 2015. In 2019, she received her Juris Doctor
17 from the University of California Hastings School of Law. Ms. Perry's rate was \$350.00 per
18 hour which is in line with that of attorneys with similar qualifications and experience. Ms. Perry
19 handled much of the early work in this action, she prepared discovery and pleadings, and
20 communicated with Plaintiffs and attempted to contact CMs. Most recently, Chief Judge Philip
21 Gutierrez of the Central District of California approved Ms. Perry's rate of \$350/hour in
22 *Martinez v. Helzberg's Diamond Shops, Inc, supra*.

23 11. Other work was performed by law clerks and support staff related to PCM Outreach.
24 Our firm seeks the rate of \$150.00 per hour for their work (Zoe Canin, Kelly Braun, and
25 Rodolfo Alatorre).

26 12. My work on the class claims in this case was devoted primarily to case strategy,
27 supervising strategy concerning the discovery disputes, reviewing pleadings and other
28 substantial papers filed with the Court, mediation, and settlement negotiations, and working

with Mr. Hicks to prepare the settlement approval materials. Given the length and breadth of my experience, as described above, my hourly rate of \$725 is reasonable. On November 22, 2013, nearly six years ago Judge Joseph C. Spero approved my rate of \$625 per hour as reasonable in *Palm v. Sur la Table, Inc.* (N.D.Cal. Case No. 12-cv-01250-JCS), and Judge Chhabria approved that same rate in *Guilbaud, supra*. In 2017, in *Thomas v. Sonoma Mission Inn Management*, Sonoma County Judge Rene Chouteau approved my hourly rate of \$650/hour. Judge Kahn recently approved my hourly rate of \$700 per hour in *Javier v. Eat24, supra*. Also recently, the San Francisco Superior Court approved my rate of \$700 per hour in *D'sa v. Amber India, supra*, and the Alameda County Superior Court approved my then-rate of \$700 per hour in the *Coppernoll* settlement approved in December 2018. In 2019, Judge Villarreal of Monterey County approved my rate of \$725 in the *Morgan-Cervantes* settlement discussed above. In January 2020, Judge Winifred Smith found my rate of \$725 per hour reasonable in *Campbell v. AEG Management Oakland, LLC* (Alameda Case No. RG17859830). Most recently, just last year Chief Judge Philip Gutierrez of the Central District of California approved my rate of \$725/hour in *Martinez v. Helzberg's Diamond Shops, Inc, supra*.

INFORMATION REGARDING CLASS COUNSEL'S LODESTAR

13. As of the week prior to this filing, Hoyer & Hicks had invested over 700 hours into this case over a period of over two years broken down by each attorney and staff member as follows:

Totals by Staff		Hours	Rate	Lodestar
Richard Hoyer	RAH	74:22:56	\$ 725.00	\$ 54,334.52
Ryan Hicks	RLH	347:26:01	\$ 550.00	\$ 191,088.49
Eisha Perry	EP	50:45:08	\$ 350.00	\$ 21,248.31
Nicole Gage	NBG	16:09:17	\$ 375.00	\$ 6,058.02
Rodolfo Alatorre	RA	78:30:00	\$ 150.00	\$ 11,775.00
Kelly Braun	KB	117:48:00	\$ 150.00	\$ 17,670.00
Zoe Canin	ZC	28:15:00	\$ 150.00	\$ 4,237.50
Total		713:16:22		\$ 306,411.83

1 14. Contained within Paragraph 29, below, is a task-based lodestar report and summary
2 based on contemporaneous time records. As of a week prior to this filing, Class Counsel's
3 lodestar totaled \$306,411.83, and the requested attorneys' fees of \$750,000 as contemplated
4 in the Settlement result in a reasonable multiplier of 2.44 to of Class Counsel's lodestar.
5 Paragraph 34 contains a report of the costs we have incurred in litigating this case prior to
6 filing this motion, totaling \$16,458.14.

7 15. As billing records constitute confidential and privileged attorney-client communications
8 (*County of Los Angeles Board of Supervisors et al. v. Superior Court* (2015) 235 Cal.App.4th
9 1154, review granted July 8, 2015), we provide herein a summary of counsel's hours incurred
10 and our lodestar as of November 3, 2021. We can provide the actual records themselves in
11 camera if the Court so requires. The lodestar does not include the final week of work on this
12 motion, and in all of the class actions we have undertaken, we have continued to incur hours
13 even after final approval, usually between 10 and 50 over the twelve months following Final
14 Approval.

15 16. Class Counsel's compensation in this action was and is wholly contingent. Unlike
16 attorneys who are paid for all hours worked irrespective of the result that they might obtain
17 for the client, any attorneys' fees and reimbursement of expenses Class Counsel may collect
18 in connection with this action are fully contingent on their ability to obtain compensation for
19 their clients though success at trial or through settlement, as here, and which is further
20 contingent on Court approval. Being awarded attorneys' fees based on a reasonable
21 multiplier encourages my firm to continue to take on a contingency basis difficult and time-
22 consuming cases representing employees who are denied wages, but whose claims are
23 based in unsettled areas of wage and hour law.

24 17. Class Counsel rarely accepts hourly work from fee-paying clients in such cases and
25 has followed this practice for many years. Instead, we maintain active contingent fee
26 practices. Nearly every day Class Counsel receives requests for representation, new case
27 inquiries and/or offers to associate with other lawyers and law firms to prosecute complex
28 and class action cases. The fact that Class Counsel has devoted substantial time and
HOYER DECLARATION SUPPORTING MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT 8

resources to this action required the firms to forego other potentially lucrative, or at least market rate, employment. The Plaintiffs paid no retainer fee, and Class Counsel paid for all litigation costs out of pocket and with no guarantee of any reimbursement. Hoyer & Hicks has invested a substantial amount of attorney hours into this case with no guarantee of payment. Assuming the Court grants final approval on or about April 28, 2022, Class Counsel will have waited nearly 2.5 years to be paid anything. Since Class Counsel typically represents employees who were denied wages or wrongfully terminated and who cannot afford legal representation, nearly all of Class Counsel's cases are pursued on a contingent basis. Being awarded attorneys' fees encourages and enables Plaintiff-side firms like Hoyer & Hicks to continue to represent such disenfranchised employees.

18. There was no guarantee of compensation or reimbursement. Rather, counsel undertook all the risks of this litigation on a completely contingent fee basis. These risks were front and center. Defendant's vigorous and skillful defense further confronted Class Counsel with the prospect of recovering nothing or close to nothing for their commitment to and investment in the case. Nevertheless, Plaintiff and Class Counsel committed themselves to developing and pressing Plaintiff's legal claims to enforce the employee's rights and maximize the class and collective recovery. During the litigation, counsel had to turn away other less risky cases to remain sufficiently resourced for this one. The challenges that Class Counsel had to confront and the risks they had to fully absorb on behalf of the class and collective here are precisely the reasons for multipliers in contingency fee cases.

19. My firm keeps detailed documentation of attorney and paraprofessional staff members' time records. We encourage staff to use uniform task descriptions to create bills that are more consistent and readable.

20. In order to facilitate the Court's review and determination as to the reasonableness of the attorneys' fees incurred by Class Counsel in this matter, Class Counsel has combined their billing records and converted the actual contemporaneous time records into a task-based categorization. Although not an exact science, it reflects each timekeeper's best professional judgment to allocate each time entry to a specific task category. Pursuant to this

1 procedure, all time records spent on this case are assigned one of the following five task
2 categories:

- 3 • Factual investigation and Research;
- 4 • Discovery;
- 5 • PCM Outreach;
- 6 • Pleadings;
- 7 • Mediation and Settlement; and
- 8 • Case Management.

9 21. Each of these categories is described in more detail below.

10 22. The task category denoted as “Factual investigation and Research” includes time
11 spent on the following tasks: Conducting initial client and potential class member interviews;
12 Conducting field and internet research regarding identification of all potential Defendants;
13 Conducting research concerning Defendants’ timekeeping, meal and rest break, payroll and
14 tip-pooling practices; Conducting due diligence regarding potential Defendants, including
15 research regarding all such companies identities and operations; Initial strategy meetings
16 regarding pre-suit investigation; and research throughout the prosecution of this class action.

17 23. The task category denoted as “Discovery” includes time spent on the following tasks:
18 Planning, drafting and/or responding to written discovery requests; Preparing for and
19 conducting depositions; Drafting correspondence to opposing counsel and/or the Court
20 regarding discovery disputes; Communicating and conferencing with then-putative class
21 members regarding the case and declarations; Review of documents and PCM data
22 produced by any party; legal research regarding discovery issues; Conferring with the
23 Plaintiffs regarding discovery issues; Internal meetings regarding discovery issues; and
24 drafting motions to compel further discovery.

25 24. The task category denoted as “PCM Outreach” includes time spent on the following
26 tasks: Conducting potential class member interviews; preparing interview notes and
27 declarations; and follow-up communications to and from putative class members throughout
28 the prosecution of this class action.

1 25. The task category denoted "Pleadings" includes time spent on the following tasks:
2 Drafting and responding to pleadings, including motions for leave to amend the complaint,
3 demurrers, *ex parte* applications and hearings, and preliminary and final approval of the
4 settlement; Preparing for and attending related hearings; Related legal research; Internal
5 strategy meetings regarding pleadings and law and motion matters; and Conferring with
6 Plaintiff regarding same.

7 26. The task category denoted "Mediation and Settlement" includes time spent on the
8 following tasks: reviewing informal discovery specifically related to the mediation session;
9 performing maximum damages calculations; drafting, reviewing and editing mediation brief;
10 Telephonic and in-person settlement discussions and mediation sessions with opposing
11 counsel; negotiating terms of proposed settlement following the mediation session; internal
12 strategy meetings regarding settlement; and conferring with Plaintiffs and Class Members
13 regarding settlement-related issues.

14 27. The task category denoted "Case Management" includes time spent on the following
15 tasks: Telephonic and in-person meetings with defense counsel regarding case management
16 and scheduling issues; Drafting, reviewing and editing case management statements and
17 negotiating with defense counsel regarding same; Preparing for and attending case
18 management conferences; Drafting and negotiating a proposed protective order with defense
19 counsel, and drafting the stipulation for same; Reviewing case management orders; Internal
20 strategy meetings; Overall client and class member case updates; and Overall supervision
21 and management of this complex class action.

22 28. Hoyer & Hicks took steps to eliminate or minimize any unnecessary duplication of
23 effort in prosecuting this action. For example, the vast majority of legal research and work
24 related to discovery and settlement were performed by Hicks and Perry, although with input
25 from and some drafting by myself throughout. The initial drafting of all pleadings and
26 discovery was assigned to associates, and all class member interviews and document review
27 were assigned to associates, or to law clerks and support staff under an associate's
28 supervision. Most of the pre-litigation factual investigation was done by Mr. Hicks and law

clerks. I ensured that tasks were assigned to and performed by attorneys with appropriate experience and exercised appropriate “billing partner” discretion in reviewing the bills before submitting them to the Court. We periodically reviewed the time entries to ensure that timekeeping records are reasonable and accurate. We have exercised billing judgment by writing off any time that was duplicative, or unreasonable. We have reviewed the time records in this case and can attest that, in my professional judgment, all of the time submitted supporting our proposed lodestar was: (a) spent in furtherance of necessary investigation, litigation and settlement activities; (b) of measured duration appropriate to each task; and (c) billed cost-effectively by a person of appropriate skill and experience for the task.

29. The percentage of the total work performed (in hours) by Class Counsel divided by task category is as follows:

Totals by Category	Hours	Hourly %	Lodestar
Factual Investigation and Research	52:28:49	7%	\$ 34,280.79
Pleadings	133:48:33	19%	\$ 73,135.36
Discovery	106:58:05	15%	\$ 52,902.50
PCM Outreach	312:22:32	44%	\$ 81,180.05
Case Management	16:13:17	2%	\$ 10,193.93
Mediation and Settlement	91:25:06	13%	\$ 54,719.20
Total	713:16:22	100%	\$ 306,411.83

30. Defense counsel vigorously defended their clients’ interests in this litigation. Defendant also undertook a series of strategies designed to weaken the class and make class certification inappropriate.

31. As described in the Hicks Declaration submitted concurrently herewith (at ¶¶5-6; 54-55), Defendants took several actions in direct response to this action being filed. First, within weeks after the case was filed, Defendants attempted to obtain opt-out arbitration agreements from the PCMs. Defendants also refused to agree to a *Belaire* notice process or provide the contact information of the PCMs’ supervisors without Plaintiffs moving to compel same.

32. If this case were to go to trial as a class and representative PAGA action, Class Counsel estimates that fees and costs would exceed \$1,250,000. Moreover, statutory attorneys' fees are not provided by statute for the non-derivative meal and rest period claims, the claims upon which many of the other claims are based. Indeed, if a class is not certified, leaving only the single year of PAGA claims to be litigated in this action, attorneys' fees and costs could exceed the damages awarded to the PAGA collective depending on whether the Court follows the *Ling v. P.F.Chang's China Bistro, Inc.* (2016) 245 Cal.App.4th 1242 case regarding all the derivative claims, the California Supreme Court issues an order in *Naranjo v. Spectrum Sec. Servs., Inc.* 40 Cal.App.5th 444 (2019), *review granted*, 455 P.3d 702 (Jan. 2, 2020), or the Court follows *Gunther v. Alaska Airlines, Inc.* (2021) 72 Cal.App.5th 334 and finds that § 226.3 penalties are unavailable unless *no* wage statement was provided to the PCMs (they did receive inaccurate wage statements). Regardless, litigating the class and PAGA claims would require substantial additional preparation and discovery. It would require depositions of experts, the presentation of percipient and expert witnesses at trial, as well as the consideration, preparation, and presentation of voluminous documentary evidence and the preparation and analysis of expert reports. Recovery of the damages and penalties previously referenced would also require complete success and certification of all of Plaintiff's claims, a questionable feat in light of recent developments in wage and hour and class and collective action law as well as the legal and factual grounds that Defendant has asserted to defend this action. As discussed in the Hicks Dec. (at ¶¶5-6; 54-55), though Plaintiffs asserted that the arbitration agreements were improper class communications, we are unaware of any case that has voided arbitration agreements as improper class communications for the same reasons that "Pick UP Stix" releases are usually invalidated.

33. Based on Class Counsel's adjusted lodestar of \$306,411.83, the requested attorneys' fees award of \$750,000.00 constitutes a reasonable multiplier of approximately 2.44.

REASONABLE LITIGATION COSTS INCURRED BY CLASS COUNSEL

34. Class Counsel has incurred approximately \$16,458.14 in costs as of the date of (and not including related to) this filing. Those costs are summarized as follows:

Date	Trans. No.	Cost Item	Vendor	Amount
3/12/20	14547594	Initial Filing	One Legal, Inc.	\$1,567.36
3/30/20	14547595	Service HCA Inc.	One Legal, Inc.	\$105.75
6/3/20	14733299	P's CMCS	One Legal, Inc.	\$65.00
6/5/20	80925	Download Complex Det. Orders	Alameda Sup. Ct.	\$ 3.00
6/8/20	14708469	1AC, Jury Fees, Summons	One Legal, Inc.	\$ 274.95
6/12/20	14762972	Service HCAM LLC	One Legal, Inc.	\$ 80.00
6/18/20	14778306	Filing POS Summons HCA Inc.	One Legal, Inc.	\$ 65.00
6/18/20	14777499	Filing POS Summons HCAM LLC	One Legal, Inc.	\$ 30.00
6/25/20	14823946	P'S CMCS	One Legal, Inc.	\$ 65.00
7/1/20	14762973	Service Attempts HCAH LLC	One Legal, Inc.	\$ 80.00
7/6/20	14762970	HCA Inc. Service Attempts	One Legal, Inc.	\$ 80.00
7/28/20	14932172	Filing 2AC (rejected)	One Legal, Inc.	\$ 120.00
8/12/20	15084752	JCMCS	One Legal, Inc.	\$ 100.75
8/27/20	1217	Download Stip Order Extension	Alameda Sup. Ct.	\$ 2.00
8/31/20	15071402	Stip Leave to File 2AC	One Legal, Inc.	\$ 162.50
9/9/20	15115755	Filing 2AC and Summons	One Legal, Inc.	\$ 120.00
11/2/20	15400052	P'S CMCS	One Legal, Inc.	\$ 124.50
1/11/21	15630477	P'S Motion to Compel	One Legal, Inc.	\$ 499.48
1/22/21	15769447	P'S Reply ISO Motion to Compel	One Legal, Inc.	\$ 107.50
3/5/21	15929348	Belaire Notice Stipulation	One Legal, Inc.	\$ 88.09
3/15/21	90715	Download Belaire Stip Order	Alameda Sup. Ct.	\$ 8.50
5/7/21	71923	Download MTC Order	Alameda Sup. Ct.	\$ 8.50
5/11/21	4553531	Atencio Deposition	Veritext	\$ 1,379.85
5/17/21	4553560	Manaligod Deposition	Veritext	\$ 1,057.70
5/26/21	21263	Belaire Notice Administration	Simpluris, Inc.	\$ 800.00
7/7/21	2398	Mediation	Ortman Mediation	\$ 9,000.00
9/2/21	16855740	Filing Preliminary Approval Motion	One Legal, Inc.	\$ 375.00
10/25/21	17116816	Supp Dec ISO Pre. App. - CC	One Legal, Inc.	\$ 67.17
11/4/21	17116815	E-Filing Supp Dec Pre. App.	One Legal, Inc.	\$ 20.54
			Total	\$16,458.14

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1 35. Counsel can provide receipts and invoices if necessary, but have provided the
2 summary above in the interest of brevity. All of the costs incurred were necessary to the
3 prosecution of this action to a successful settlement.
4

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

7 Executed on April 6, 2022, at San Francisco, CA.

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9 _____
Richard A. Hoyer

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DECLARATION OF RICHARD A. HOYER SUPPORTING MOTION FOR AN ORDER AND JUDGMENT:

- to:

on:

BY EMAIL: I served the document(s) on the person(s) listed above by emailing them pursuant to the parties' written e-service agreement. I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at San Francisco, California, on the date above.


Ryan L. Hicks