

LARRY W. LEE, Bar No. 228175
lwlee@diversitylaw.com
KWANPORN “MAI” TULYATHAN, Bar No. 316704
ktulyathan@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

WILLIAM L. MARDER, Bar No. 170131
bill@polarislawgroup.com
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff James Sims,
the Class, and Aggrieved Employees

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JAMES SIMS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

QG PRINTING II LLC, a Connecticut
limited liability company; 74 QG
PRINTING II LLC, business
organization, form unknown; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 5:20-cv-01632-DMG-DTBx

**DECLARATION OF KWANPORN
“MAI” TULYATHAN IN SUPPORT OF
PLAINTIFF’S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: April 19, 2024

Time: 10:00 A.M.

Courtroom: 8C

Judge: Hon. Dolly M. Gee

1 **DECLARATION OF KWANPORN “MAI” TULYATHAN**

2 I, Kwanporn “Mai” Tulyathan, declare as follows:

3 1. I am an attorney at law duly admitted to practice before all courts in the
4 State of California and am a member of the law firm of the Diversity Law Group, P.C.,
5 one of the attorneys of record for Plaintiff James Sims (“Plaintiff”), on behalf of himself
6 and other similarly situated individuals, in the above-entitled action. I have personal
7 knowledge of the matters set forth herein, and if called upon as a witness to testify
8 thereto, I could and would competently do so.

9 2. On June 1, 2020, Plaintiff filed the operative class and representative action
10 complaint against Defendant QG Printing II, LLC (“Defendant”) in the Superior Court of
11 California, County of Riverside. Dkt. No. 1-2. The operative Complaint alleges the
12 following causes of action: (1) failure to pay wages; (2) violation of Labor Code § 2802;
13 (3) violation of Labor Code § 226(a); (4) violation of Business and Professions Code §
14 17200, *et seq.*; and (5) violation of Labor Code § 2698, *et seq.*, the Private Attorneys
15 General Act (“PAGA”).

16 3. Specifically in this action, Plaintiff alleges that during his off hours, he was
17 required to use his personal telephone to call a designated telephone number and/or log in
18 via an online website before his scheduled work shift to confirm whether he will in fact
19 be working that particular shift. Plaintiff alleges that he was not paid for the time
20 “calling in” to check his schedule off-the-clock and that he was not reimbursed for the
21 costs incurred in connection therewith. Plaintiff also alleges that he was not paid
22 reporting time pay on occasions when he reported to work but was not permitted to work
23 and/or worked less than half of the scheduled shift. In addition, Plaintiff asserts
24 derivative wage statement violations based on the above violations, and independent
25 wage statement violations, alleging that the wage statements identified inaccurate hourly
26 rates of pay for overtime and double time wages, as well as an incorrect legal name of the
27 employer.

28 4. On August 14, 2020, Defendant removed the action to federal court. Dkt.

1 No. 1.

2 5. Plaintiff's counsel vigorously litigated this Action since the commencement
3 of the Action, including obtaining class certification and contesting appellate review of
4 the class certification order in the Ninth Circuit. Thus, Plaintiff's counsel took on
5 substantial risk in litigating the Action and achieved a fair, reasonable, and adequate
6 settlement for the Class.

7 6. Plaintiff's counsel engaged in significant investigation before settling this
8 matter. Throughout the litigation, Plaintiff engaged in extensive formal discovery,
9 including propounding several rounds of written discovery and taking various depositions
10 of Defendant's FRCP 30(b)(6) witnesses and expert witness and over a dozen
11 subpoenaed witnesses/class members. Plaintiff's counsel has also defended Plaintiff's
12 deposition.

13 7. Defendant has also produced class data, thousands of pages of call logs, and
14 documents pertaining to the relevant policies and practices at issue. The Parties also
15 engaged in expert discovery.

16 8. Furthermore, the Parties conducted informal discovery in connection with
17 mediation and settlement negotiations. As part of informal discovery, Defendant
18 provided information regarding the size and scope of the class. Plaintiff also retained an
19 expert witness to conduct data and exposure analysis for purposes of mediation.

20 9. The settlement was the product of arm's length negotiations between highly
21 able and experienced attorneys on both sides, possessed of the relevant data and extensive
22 legal research which they had carefully analyzed.

23 10. The Parties engaged in thorough, arm's length negotiations over two
24 mediation sessions. On September 7, 2021, the Parties participated in a mediation
25 session with the Honorable Kevin Murphy (Ret.). Despite good faith, arm's length
26 negotiations, the Parties were unable to reach an agreement at the first mediation and
27 resumed litigation thereafter.

28 11. On June 28, 2023, the Parties attempted a second mediation session with

1 experienced neutral Michael J. Loeb, Esq. While the Parties did not reach a settlement on
2 that date, the Parties engaged in negotiations post-mediation facilitated by the mediator
3 for several months and ultimately reached this settlement, the terms of which are
4 memorialized in the Joint Stipulation of Class Action Settlement (“Settlement
5 Agreement” or “Stipulation”) previously submitted to the Court, Dkt. No. 76-1, p. 14.

6 12. The merits of the settlement have been set forth in detail in Plaintiff’s
7 Motion for Preliminary Approval.

8 13. As previously briefed in Plaintiff’s Motion for Preliminary Approval,
9 Plaintiff estimated the maximum class exposure at \$11,135,839.73 before accounting for
10 any of Defendant’s defenses or Plaintiff’s risk of loss. The \$1,150,000.00 settlement
11 represents approximately 10.33% of the maximum exposure.

12 14. When taking into account the defenses raised by Defendant and risk of loss,
13 the estimated potential liability is reduced to a realistic \$7,297,013.33. Based on this
14 amount, the \$1,150,000.00 settlement represents approximately 15.76% of the potential
15 exposure. These percentages are considered reasonable and consistent with other class
16 action settlement recoveries. As addressed in the Court’s Preliminary Approval Order
17 (Dkt. No. 80), the settlement falls within the range of reasonableness.

18 15. On December 28, 2023, this Court entered its order granting preliminary
19 approval of the settlement (the “Preliminary Approval Order”). Dkt. No. 80. The Court-
20 approved Class Notice was sent to Class Members pursuant to the Preliminary Approval
21 Order. Based on the positive response of Class Members, Class Counsel seek final
22 approval of class action settlement.

23 16. Based on their own respective independent investigations and evaluations,
24 the Parties and their respective counsel are of the opinion that settlement for the
25 consideration and on the terms set forth in their Settlement Agreement is fair, reasonable,
26 and adequate and is in the best interests of the Class and the Defendant in light of all
27 known facts and circumstances and the expenses and risks inherent in litigation. The lack
28 of opt outs and objections support that the settlement is fair and reasonable.

1 17. Based on the Class List provided by Defendant, 780 out of 1,008 individuals
2 on the Class List are Class Members. The remaining 228 individuals are PAGA
3 Employees¹ who are part of the PAGA settlement only, and are not Class Members
4 belonging to Group 1 and/or Group 2.

5 18. Based on per pay period value, each Class Member will be paid a raw
6 average of approximately \$194.55, with the highest individual settlement payment
7 estimated to be \$2,953.16. Class Members who did not opt out during the notice process
8 will automatically be sent a settlement check representing their individual shares of the
9 settlement.

10 **ATTORNEY QUALIFICATIONS**

11 19. I am one of the primary attorneys on this matter. My qualifications are as
12 follows: I received my JD from Loyola Law School in 2017. I received the First Honors
13 Award in Legal Research and Writing, First Honors Award in Appellate Advocacy, and
14 First Honors Award in Civil Litigation Practicum I for achieving the highest grade in
15 those classes. During law school, I was a Staff Editor for Loyola Law Review. I was also
16 an extern at the U.S. District Court, Central District of California, for the Honorable
17 Christina A. Snyder, and a certified law clerk at the San Diego County District Attorney's
18 Office, Collaborative Courts Division, and the Los Angeles County District Attorney's
19 Office, Consumer Protection and Environmental Crimes Division. In 2016, I participated
20 in Loyola Law School's Scott Moot Court Competition, where I placed Top 16 and was
21 the awarded the Top Ten Brief Award. In 2017, I participated in the Employment Rights
22 Clinic, an extension of the Division of Labor Standards Enforcement created to
23 investigate retaliation complaints. Upon graduation from law school, I was admitted to
24 the California Bar in December 2017.

25 20. I am currently an associate at the law firm Diversity Law Group, P.C., an
26 employment law firm that has handled numerous wage and hour class and individual

27 ¹ The term "PAGA Employees" is defined as Class Members who worked for Defendant
28 at any time from April 6, 2019, through Preliminary Approval (the "PAGA Period").

1 actions, on both plaintiff and defense sides. The firm currently has cases in numerous
2 state courts, including the Santa Clara Superior Court, Los Angeles Superior Court,
3 Orange County Superior Court, San Diego County Superior Court, Monterey County
4 Superior Court, as well as the United States District Courts for the Central, Northern,
5 Southern, and Eastern Districts of California.

6 21. I am currently handling and/or have handled numerous wage and hour class
7 action and PAGA lawsuits.

8 22. In 2018, I argued before the California Court of Appeal, Second Appellate
9 District, in the case of *Lee v. California Commerce Club, Inc.* (California Court of
10 Appeal Case Number B276171, LASC Case Number BC596924), and *Perez v. Standard*
11 *Drywall, Inc.* (California Court of Appeal Case Number A146819, Alameda Sup. Ct. No.
12 RG15761142). In that same year, I also assisted the firm in successfully obtaining class
13 certification and partial summary judgment by the United States District Court, Northern
14 District of California in the case of *Magadia v. Wal-Mart Associates, Inc.* (Case Number
15 17-CV-00062-LHK). I third chaired the bench trial in that same case in December 2018.

16 23. I have also been certified and/or approved as class counsel in numerous
17 other wage/hour class actions. Most recently, I was certified as class counsel in the cases
18 *Garcia v. Wal-Mart Associates, Inc., et al.* (S.D. Cal., Case Number 3:18-cv-00500-L-
19 MDD), *Richert v. Samaritan, LLC, et al.* (Santa Clara County Superior Court, Case
20 Number 17CV314186), *Song v. THC – Orange County, Inc.* (C.D. Cal., Case No. 8-17-
21 cv-965-JLS (DFM)), *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Santa Clara
22 County Superior Court, Case No. 16-CV-299319), and *Sims v. QG Printing II, LLC, et al.*
23 (C.D. Cal., Case No. ED CV 20-1632-DMG (KKx)), as part of the courts’ orders granting
24 class certification pursuant to Fed. R. Civ. P. 23 and California Code of Civil Procedure §
25 382.

26 24. Moreover, I was granted final approval as class counsel in *Lao v. H & M*
27 *Hennes & Mauritz, L.P.* (N.D. Cal., Case No. 5:16:cv-333 EJD), *Abarca v. El Estero Car*
28 *Wash, Inc. et al* (Monterey County Superior Court, Case No. 18CV003398), *Valles v.*

1 *Community Hospital of the Monterey Peninsula* (Monterey County Superior Court, Case
2 No. 17CV003452), *Hernandez v. Wells Fargo Bank National Ass’n, et al* (C.D. Cal.,
3 Case No. 16-CV-299319); *Baker v. California Forensic Medical Group, Inc., et al.*,
4 Judicial Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723);
5 *Mendez v. Falcon Trading Company* (Monterey County Superior Court, Case No.
6 19CV004512).

7 25. I have no conflicts with the Class and will adequately represent the Class.

8 **NOTICE**

9 26. Concurrent with the filing of this Motion, Plaintiff uploaded this motion and
10 to the LWDA’s website. A true and correct copy of the LWDA confirmation is attached
11 hereto as **Exhibit A**.

12 I declare under penalty of perjury and the laws of the United States of America and
13 the State of California that the foregoing is true and correct and that this declaration was
14 executed on this 5th day of April 2024, at Los Angeles, California.

15 /s/ Kwanporn “Mai” Tulyathan
16 Kwanporn “Mai” Tulyathan
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EXHIBIT A