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**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 11/12/2021 12:00 AM
Reviewed By: V. Castaneda
Case #20CV366465
Envelope: 7649071**

Attorneys for Plaintiff, the Class, and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

SYLVIA BERNABE, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

899 CHARLESTON, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20CV366465

(Assigned to the Honorable Patricia M. Lucas,
Dept. 3)

**DECLARATION OF MAI TULYATHAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 8, 2021
Time: 1:30 P.M.
Dept.: 3

Complaint Filed: May 8, 2020
FAC Filed: July 16, 2021

DECLARATION OF MAI TULYATHAN

I, Mai Tulyathan, 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, counsel of record for Named Plaintiff Sylvia Bernabe (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The proposed settlement meets the criteria for this Court to grant final approval of this matter on a class-wide basis, as the settlement is fair, adequate, and reasonable.

3. The Settlement Agreement was the product of arm’s length negotiations between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research which they had carefully analyzed. Plaintiff’s Counsel engaged in extensive factual investigation before settling. Class Counsel engaged in informal discovery before mediation, including reviewing the production of class data, sample of time and payroll records, and information pertaining to Defendant’s sick pay/paid time off, shift differential pay, and wage statement policies and practices. Plaintiff also retained an expert witness to review and analyze class data and sampling time and payroll records produced by Defendant. The Parties also participated in a full-day of mediation with an experienced wage-and-hour mediator, Michael E. Dickstein, Esq.

4. I have spent significant time researching and pursuing the claims that have been alleged in this action. Based on my independent investigations and evaluations, I am of the opinion that the proposed settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, in light of all known facts and circumstances, and the expenses and risks inherent in litigation. The settlement was negotiated at arm’s length and was facilitated by an experienced and neutral mediator. Thus, this settlement should be granted final approval.

5. The Court preliminary approved this settlement on August 18, 2021, directing distribution of the Notice of Pendency of Class Action Settlement and Final Hearing (“Class Notice”) and scheduling the hearing for final approval of the settlement (the “Preliminary Approval Order”).

1 6. The Court directed the Parties to make slight modifications to the Class Notice in
2 the Preliminary Approval Order—specifically, informing class members that they may appear at
3 the final approval hearing either in person or by telephone via CourtCall. The Parties have
4 modified the Class Notice pursuant to the Court’s instructions, and lodged the revised Class
5 Notice with the Court on August 19, 2021. Attached as **Exhibit A** is a true and correct copy of
6 the Notice of Lodging of Revised Settlement Class Notice filed with the Court on August 19,
7 2021. I provided the revised Class Notice to Phoenix Settlement Administrators for purposes of
8 notice dissemination on September 9, 2021.

9 7. There were no objections to the amount of attorneys’ fees or litigation costs that
10 Plaintiff’s Counsel seeks in this case and for which Plaintiff asks the Court for final approval.

11 8. Any remaining monies from uncashed settlement checks will be distributed to
12 Asian Americans Advancing Justice – Los Angeles. Asian Americans Advancing Justice – Los
13 Angeles is a legal and civil rights nonprofit organization that provides free legal aid to low-
14 income communities with a focus on Asian Americans, Native Hawaiians, and Pacific Islanders.
15 Attached as **Exhibit B** is a true and correct copy of the legal services brochure from Asian
16 Americans Advancing Justice – Los Angeles. Plaintiff’s Counsel does not have any relationship
17 with or connection to said organization.

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

1 to investigate retaliation complaints. Upon graduation from law school, I was admitted to the
2 California Bar in December 2017.

3 10. I am currently an associate at the law firm Diversity Law Group, P.C., an
4 employment law firm that has handled numerous wage and hour class and individual actions, on
5 both plaintiff and defense sides. The firm currently has cases in numerous state courts, including
6 the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San
7 Diego County Superior Court, Monterey County Superior Court, as well as the United States
8 District Courts for the Central, Northern, Southern, and Eastern Districts of California. I have
9 handled and am currently handling numerous wage and hour class action and PAGA lawsuits,
10 including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-cv-00062-LHK);
11 *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD); *Arroyo v.*
12 *Int'l Paper Company* (Case Number 5:17-cv-06211-BLF); *Baker v. California Forensic Medical*
13 *Group, Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No.
14 17CV003723); *Westmoreland v. KinderCare Education LLC* (Case Number CGC-19-573125);
15 *Arrington v. Automatic Data Process Insurance Agency, Inc.* (Case Number 30-2019-01099994-
16 CU-OE-CXC); *Garcia v. Apex Systems, LLC, et al.* (Case Number RG19014709); *Martin v.*
17 *Wells Fargo Bank* (Case Number 19-cv-01969-JAK).

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

26 12. I have also been certified and/or approved as class counsel in numerous other
27 wage/hour class actions. Most recently, I was certified and/or approved as class counsel in the
28 cases *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert*

1 *v. Samaritan, LLC, et al.* (Case Number 17CV314186), *Song v. THC – Orange County, Inc.*
2 (Case No. 8-17-cv-965-JLS (DFM)), and *Hernandez v. Wells Fargo Bank National Ass’n, et al*
3 (Case No. 16-CV-299319). Moreover, I was granted final approval as class counsel in *Lao v. H*
4 *& M Hennes & Mauritz, L.P.* (Case No. 5:16:cv-333 EJD), *Abarca v. El Estero Car Wash, Inc.*
5 *et al* (Case No. 18CV003398), *Valles v. Community Hospital of the Monterey Peninsula* (Case
6 No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644), *Hernandez v.*
7 *Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319); *Baker v. California Forensic*
8 *Medical Group, Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No.
9 17CV003723); *Mendez v. Falcon Trading Company* (Case No. 19CV004512); *Truong v. DS*
10 *Services of America, Inc.* (Case No. FCS054399); *Ward v. Seagate US LLC* (Case No.
11 20CV368917).

12 13. To date, I have incurred approximately 107.3 hours in connection with the
13 litigation of this lawsuit. Attached hereto as **Exhibit C** is a chart summarizing the amount of
14 work I have incurred to date on this matter.

15 14. In addition to the hours above, I also anticipate spending an additional 8 hours
16 through the completion of this case to handle any post-final approval and settlement matters,
17 including payments from the Settlement Administrator and any related issues.

18 15. Thus, I anticipate the total amount of my fees incurred in this case to be
19 approximately \$57,650.00 based on 115.3 total hours, at an hourly rate of \$500.00 per hour. In
20 2019 and 2020, I have been approved at an hourly rate of \$450.00 per hour by various Courts in
21 a number of matters, including but not limited to, *Lao v. H & M Hennes & Mauritz, L.P.* (Case
22 No. 5:16:cv-333 EJD), *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-
23 299319), and *Abarca v. El Estero Car Wash, Inc. et al* (Case No. 18CV003398). As of January 1,
24 2021, I increased my hourly rate to \$500.00 per hour. I have been approved at the hourly rate of
25 \$500.00 in other cases in 2021, including *Baker v. California Forensic Medical Group, Inc., et*
26 *al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723), *Mendez*
27 *v. Falcon Trading Company* (Case No. 19CV004512), *Truong v. DS Services of America, Inc.*
28 (Case No. FCS054399), and *Ward v. Seagate US LLC* (Case No. 20CV368917).

1 16. My office has incurred costs in the amount of \$15,067.68. The costs are all
2 litigation related costs, including but not limited to, filing and service fees, postage fees,
3 CourtCall fees, expert fees, and costs associated with mediation. Attached hereto as **Exhibit D** is
4 copy of the costs incurred in connection with prosecution of this lawsuit.

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

7 Executed on this 11th day of November, 2021, at Los Angeles, California.

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10 Mai Tulyathan
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EXHIBIT A

Larry W. Lee (State Bar No. 228175)
Mai Tulyathan (State Bar No. 316704)
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**Electronically Received
by Superior Court of CA,
County of Santa Clara,
on 8/19/2021 2:53 PM
Reviewed By: R. Walker
Case #20CV366465
Envelope: 7099153**

Attorneys for Plaintiff, the Class, and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

SYLVIA BERNABE, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

899 CHARLESTON, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20CV366465

(Assigned to the Honorable Patricia M. Lucas,
Dept. 3)

**PLAINTIFF'S NOTICE OF LODGING OF
REVISED SETTLEMENT CLASS NOTICE**

Date: August 18, 2021

Time: 1:30 P.M.

Dept.: 3

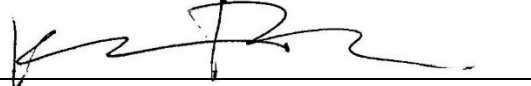
Complaint Filed: May 8, 2020

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Pursuant to the Court's August 18, 2021 Order Re:
3 Motion for Preliminary Approval of Class Action Settlement, Plaintiff hereby submits the
4 revised Notice of Pendency of Class Action Settlement and Final Hearing for the Court's
5 approval.

6
7 DATED: August 19, 2021

DIVERSITY LAW GROUP, P.C.

8
9 By: 

Larry W. Lee

Mai Tulyathan

10 Attorneys for Plaintiff, the Class, and Aggrieved
11 Employees

EXHIBIT A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

SYLVIA BERNABE, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

899 CHARLESTON, a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO: 20CV366465

Assigned to the Hon. Patricia M. Lucas, Dept. 3

**NOTICE OF PENDENCY OF CLASS
ACTION SETTLEMENT AND FINAL
HEARING**

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT

A California court authorized this notice. This is not a solicitation from a lawyer.

**YOUR ESTIMATED TOTAL INDIVIDUAL PAYMENT AMOUNT FROM THIS
CLASS ACTION SETTLEMENT IS \$ [REDACTED].**

According to 899 Charleston's records, there are [REDACTED] pay periods during which you were paid shift differentials, bonuses, and/or commissions as a non-exempt employee in California between April 6, 2017 and October 31, 2020. Based on this number, your Individual Payment Amount as a member of the Class is estimated to be \$[REDACTED].

- A settlement will provide \$250,000.00 to pay claims to certain current and former non-exempt employees, as described below, who have been employed in California by 899 Charleston ("899 Charleston") and paid shift differentials, bonuses, and/or commissions between April 6, 2017 and October 31, 2020 (the "Class Period").
- The settlement resolves a lawsuit in which it is alleged that 899 Charleston failed to: (1) properly calculate and timely pay overtime wages to employees in California who received overtime and shift differential wages in the same workweek; (2) properly calculate and timely pay sick pay wages to employees in California; and (3) provide accurate wage statements to California employees who received overtime, shift differential, and/or sick pay wages, as described more fully below. The settlement avoids the costs and risks from continuing the lawsuit, pays money to employees, and releases 899 Charleston from liability for the alleged violations.
- Lawyers for the employees will ask the Court to award them up to \$83,333.33 as attorneys' fees and up to \$25,000 as costs and expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- 899 Charleston expressly denies all of the claims in the lawsuit and denies any wrongdoing or liability. The two sides disagree on how much money – if any – could have been awarded if employees won at trial.
- **Your legal rights are affected whether you act or do not act. Please read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Can Do Nothing	You need not take any action if you wish to receive your settlement payment. If the settlement is approved by the Court and you do nothing, you will automatically be mailed a settlement check for your share of the settlement at the address on file with the Settlement Administrator. In exchange for this settlement check, you will release or give up any rights to sue 899 Charleston separate for the same legal claims that are part of this lawsuit (see page 4 for an explanation of the claims you are giving up). If you move, you must notify the Settlement Administrator of your new address.
You Can Exclude Yourself	If you ask to be excluded from the settlement, you will get no payment from the settlement, but you will keep any rights to sue 899 Charleston for the same legal claims that are part of this lawsuit. This is the only option that allows you to be part of any other lawsuit against 899 Charleston asserting the legal claims that were settled in this case. You cannot ask to be excluded <u>and</u> still get a settlement payment. If you ask to be excluded from the settlement, you cannot object to the settlement.
You Can Object to the Settlement	If you do not agree with the settlement, you can object to the settlement according to the procedures described below on page 6. The Court may or may not agree with your objection. If the Court does not agree with your objection, you will still be bound by the terms of the settlement and will receive a settlement payment. Objecting to the settlement will <u>not</u> exclude you from the settlement.
You Can Attend the Final Approval Hearing	You can ask to speak in Court about the fairness of the settlement at the final fairness hearing. The Court will hold a final fairness hearing to determine whether the settlement is fair, reasonable, and adequate on [DATE], 2021 at [TIME]. More information regarding this hearing is set forth on page 5.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit and informs you of your legal rights under that proposed settlement. You are receiving this notice because, according to 899 Charleston's records, you may be a member of the class on whose behalf this lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On May 8, 2020, Plaintiff Sylvia Bernabe filed this class action lawsuit against 899 Charleston in Santa Clara County Superior Court. The lawsuit alleges violations of California Labor Code §§ 201-203, 226(a),

510, 558, 1194, and 2698, *et seq.*, and Business and Professions Code § 17200, *et seq.* Specifically, the lawsuit alleges that 899 Charleston failed to timely pay overtime wages at the correct regular rate to employees in California who received overtime and shift differential wages in the same workweek; timely pay sick pay wages at the correct regular rate to employees in California; and provide accurate wage statements to California employees whenever overtime and/or shift differential wages were paid. Based on these allegations, Plaintiff seeks to recover statutory penalties, civil penalties, attorneys' fees, and costs on behalf of herself and other employees affected by these alleged violations (the "Settlement Class").

899 Charleston denies all of the material allegations in the lawsuit and denies that it did anything wrong. Further, 899 Charleston attests that any regular rate calculation that led to the underpayment of overtime wages and sick pay wages was based on a formula error by the payroll service hired by 899 Charleston's management company.

The Parties have reached an agreement to resolve the claims in the lawsuit. The Court has preliminary approved Plaintiff to represent the Settlement Class. However, the Court has not made any findings with respect to the merits of Plaintiff's claims in the lawsuit.

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or 899 Charleston. Plaintiff believes she would have prevailed on her claims at a trial. 899 Charleston does not believe that Plaintiff would have won anything from a trial. But there was no trial. Instead, after thorough investigation into the facts and claims, both sides agreed to a settlement. That way they each avoid the costs, risks, and uncertainty of a trial, and the employees allegedly affected will get compensation. Plaintiff and Plaintiff's attorneys believe the settlement is fair, reasonable, and adequate and is in the best interests of all Settlement Class Members.

B. Who is in the Settlement Class?

The settlement encompasses a Settlement Class consisting of the following:

All current and former non-exempt employees of Defendant in the State of California who were paid shift differential wages, bonuses, and commissions at any time during the Class Period who do not opt out of this Settlement (the "Class").

You are a member of this class.

C. What has 899 Charleston agreed to do?

899 Charleston will pay \$250,000 (the "Maximum Settlement Amount") to settle the lawsuit. The following sums will be paid from the Maximum Settlement Amount: (1) \$15,000 to the California Labor and Workforce Development Agency ("LWDA") as its share of the settlement payment being made under the California Private Attorneys General Act ("PAGA"); (2) Class Counsel's attorneys' fees in an amount set by the Court not to exceed \$83,333.33, and Class Counsel's documented litigation costs in an amount set by the Court not to exceed \$25,000; (3) a service payment to the Plaintiff in an amount set by the Court, not to exceed \$10,000 for her service in the lawsuit; and (4) no more than \$4,950 to the settlement administrator for administering the settlement. The portion of the Maximum Settlement Amount remaining after these payments is the Net Settlement Amount, which will be paid out to those Settlement Class Members who do not opt out of the Settlement, as explained below.

D. What are you giving up to get a payment and stay in the Class?

Subject to the Court's approval of the Settlement, Plaintiff and all Settlement Class Members who do not opt out of the Settlement ("Participating Class Members") will release 899 Charleston, and any of its past, present, and future parents, owners, subsidiaries, affiliates, successors-in-interest, assigns, auditors, accountants, experts, contractors, partners, insurers, reinsurers, and other parties acting on their behalf, officers, directors, shareholders, employees, agents, attorneys, and representatives ("Released Parties"), as follows:

If you do not opt out of the Settlement, you will be releasing the Released Parties from any and all claims that were alleged or reasonably could have been alleged in the operative Complaint based upon the facts, allegations, or causes of actions contained therein, including the following claims for relief, that accrued during the Class Period: a) Claims for improper and/or inaccurate wage statements; underpayment of overtime wages; underpayment of sick or PTO pay wages; timeliness of payment of overtime wages; timeliness of payment of sick or PTO pay wages; waiting time penalties; any unpaid wages related to any of the foregoing; restitution for any of the foregoing; violations of Labor Code §§ 201-203, 226, 246, 510, 558, and 1194; and b) Any and all claims for penalties under the California Private Attorneys General Act predicated on claims for improper and/or inaccurate wage statements; underpayment of overtime wages; underpayment of sick or PTO pay wages; timeliness of payment of overtime wages; timeliness of payment of sick or PTO pay wages; waiting time penalties; any unpaid wages related to any of the foregoing; violations of Labor Code §§ 201-203, 226, 246, 510, 558, and 1194, and all other claims under the PAGA based on the facts as alleged in the Complaint.

The claims being released above (collectively, "the Released Claims") do not include a release of *all* legal claims you may have as an employee or former employee of 899 Charleston. The Released Claims are specifically limited to the claims set forth above.

E. How much money will I receive?

Each Participating Class Member will receive an Individual Payment Amount, which is a share of the Net Settlement Amount. The Net Settlement Amount is calculated by deducting attorneys' fees and costs, settlement administration costs, any service payment to the Plaintiff, and the LWDA's share of the PAGA penalty payment from the Maximum Settlement Amount.

The Net Settlement Amount will be apportioned among Class Members on a pro rata basis, based on the number of pay periods reflecting payment for shift differentials, commissions, and/or bonuses during the Class Period, with a minimum payment to each Class Member of \$100.

According to 899 Charleston's records, there are [REDACTED] pay periods during which you received shift differentials, bonuses, and/or commissions as a non-exempt employee in California between April 6, 2017 and October 31, 2020.

Based on this number, your Individual Payment Amount as a member of the Class is estimated to be \$[REDACTED].

The actual amount that you receive as a member of the Settlement Class could end up being more or less than this amount, depending on the final settlement terms approved by the Court.

Please be advised that the number of pay periods listed above, and the other information regarding your eligibility as a member of the Settlement Class, is presumed to be correct unless you submit documents proving otherwise. If you disagree with the information listed above, please submit an explanation and supporting evidence to the Settlement Administrator no later than [45 days after mailing]. In the event of

a dispute about the correctness of this information, the Settlement Administrator will resolve the challenge with input from 899 Charleston and Class Counsel, subject to final resolution by the Court if necessary.

F. Will any taxes be taken out of the Individual Payment Amounts?

No. There will be no payroll withholding from your payment because the entirety of your Individual Payment Amount will be treated as penalties and interest and reported as non-wage income on an IRS Form 1099. The Settlement Administrator will issue 1099 Forms to all Settlement Class Members who cash their checks.

The fact that payroll withholdings will not be made does not mean that the payments are not taxable income to you. Settlement Class Members are responsible for the appropriate payment of any federal, state, and/or local income or payroll taxes due on the settlement payments they receive. The tax issues for each Settlement Class Member are unique to that Class Member. You are advised to obtain tax advice from your own tax advisor with respect to any payments resulting from this settlement. This Notice does not constitute legal or tax advice regarding any federal, state, or local tax issue, and nothing in this Notice is intended to or should be used by any person for the purpose of avoiding any tax liability or tax penalties.

THE FINAL APPROVAL HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Approval Hearing”) on [REDACTED], 2021, at [REDACTED], in Department 3 of the Santa Clara County Superior Court, located at 191 N. First Street, San Jose, CA 95113. The Court will then determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorneys’ fees and costs to be awarded to Plaintiff’s attorneys; (v) the amount that should be awarded to Plaintiff as a service payment for prosecuting this lawsuit on behalf of other 899 Charleston employees; and (vi) the amount that should be approved for settlement administration costs. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself. The Final Approval Hearing may be continued to another date without further notice. Class Members may appear at the Final Approval Hearing either in person in the courtroom or by telephone via CourtCall. Class Members who wish to appear by CourtCall should contact class counsel at least three days before the hearing if possible, to arrange a telephonic appearance. Any CourtCall fees for an appearance by an objecting Class Member will be paid by class counsel.

WHAT ARE YOUR OPTIONS?

• **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with the number of pay periods during which you received shift differentials, bonuses, and/or commissions as indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position. The Settlement Administrator’s address is [Settlement Administrator address].

- **OPTION 2 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself from (“opt out” of) the Settlement Class, but if you choose to do so, you will not receive any benefits or a monetary payment from the proposed settlement. You will not be bound by a judgment in this case, and you will have the right to file your own lawsuit against 899 Charleston for the same claims in this lawsuit in your own separate lawsuit if you wish.

To exclude yourself from the Settlement, you can exclude yourself by writing to the Settlement Administrator stating that you want to be excluded from the *Sylvia Bernabe v. 899 Charleston* settlement.

Be sure to include: (a) your name; (b) address; (c) telephone number; (d) your signature; and (e) a statement that you wish to be excluded from the *Sylvia Bernabe v. 899 Charleston* settlement. Your letter must be postmarked or fax stamped no later than [45 days after mailing] and mailed or faxed to the Settlement Administrator at [Settlement Administrator address and fax number].

- If you submit a valid and timely request for exclusion, you will no longer be part of the Settlement. You may not object to the Settlement and will not receive an Individual Payment Amount. However, you will retain all rights you may have against 899 Charleston for the same legal claims made in this lawsuit.

- **OPTION 3 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you dislike the proposed settlement, you can object to the proposed settlement (or any of its terms). You can object to the proposed settlement by writing to the Settlement Administrator or you may also appear at the Final Approval Hearing to have the Court hear your objections, either in person or through an attorney at your own expense.

If you wish to submit a written objection, you must include: (a) the case name and number of this lawsuit, *Sylvia Bernabe v. 899 Charleston*, Case No. 20CV366465; (b) your name; (c) your current address; (d) your telephone number; (e) the grounds for your objection; and (f) any and all evidence for which your objection is based on. All written objections and supporting papers must be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than [45 days after mailing]. However, you may show up and raise an objection at the Final Approval Hearing, either in person or through counsel retained at your own expense, whether or not you provided prior written notice of your objection.

If you submit an objection, you will remain eligible for a monetary payment under the Settlement if the Court approves the Settlement. If the Court rejects your objection, you will still be bound by the terms of the Settlement. You cannot exclude yourself from the Settlement **and** submit an objection to the Settlement.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed Settlement Agreement, which is on file with the Clerk of the Santa Clara Superior Court, 191 N. First Street, San Jose, CA 95113, and may also be reviewed online at [insert court website link] or at [Settlement Administrator’s website].

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF’S ATTORNEYS: Larry W. Lee and Mai Tulyathan of Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, Phone: (213) 488-6555; and William L. Marder of Polaris Law Group

LLP, 501 San Benito Street, Suite 200, Hollister, CA 95023, Phone: (831) 531-4214. **DO NOT CALL THE COURT.**

**BY ORDER OF THE SANTA CLARA COUNTY
SUPERIOR COURT OF THE STATE OF CALIFORNIA**

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On August 19, 2021, I served the following document(s) described as: **PLAINTIFF'S**
11 **NOTICE OF LODGING OF REVISED SETTLEMENT CLASS NOTICE** on the interested
12 parties in this action as follows:

13 Susan E. Bishop
14 Susan.bishop@berliner.com
15 Sabina Hall
16 Sabina.Hall@berliner.com
17 Berliner Cohen, LLP
18 10 Almaden Blvd., 11th Floor
19 San Jose, California 95113
20 *Attorneys for Defendant 899 Charleston*

21 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
22 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website
23 www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for
24 the above-entitled case. The service transmission was reported as complete and a copy of the
25 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)
26 in this office.

27 I declare under penalty of perjury under the laws of the State of California that the
28 above is true and correct. Executed on August 19, 2021, at Los Angeles, California.

29
30 
31 Erika Mejia

EXHIBIT B



ASIAN AMERICANS
**ADVANCING
JUSTICE**
LOS ANGELES

FREE LEGAL HELP

WE SERVE THOSE IN NEED



ABOUT US

Asian Americans Advancing Justice – Los Angeles is one of the nation’s largest legal and civil rights organizations for Asian Americans, Native Hawaiians, and Pacific Islanders.

Our staff of attorneys and network of community lawyers offer free and/or low cost legal advice, litigation, and in some cases representation. We are also social justice warriors who fight for civil rights and the well-being of our diverse community.

HOW WE CAN HELP

We are available to answer questions and offer guidance on a number of legal issues. Our service is free of charge.

Our staff of attorneys and network of community lawyers offer free and/or low cost legal advice, litigation, and in some cases representation. We are also social justice warriors who fight for civil rights and the well-being of our diverse community.

We do not accept criminal, personal injury or traffic court matters.

**Anti-Asian
Discrimination
Citizenship
Domestic
Violence**

**Family Law
Health Care
Access
Housing Rights
Immigration**



WHO WE CAN HELP

Our services are open to all, regardless of ethnicity. We prioritize Asian Americans, Native Hawaiians, and Pacific Islanders who are low-income and limited-English speakers. Unless otherwise noted, all of our services are free. Because of our limited resources and staffing, we cannot accept every request for help. Some may be referred to other legal or social services organizations.

HOW TO GET HELP

Call our multi-language toll free helplines. The live hours are Monday – Friday 10 a.m. to 3 p.m.

During other times, leave a voicemail message. Our staff will typically return calls within one business day. Our professionals will ask for some personal information to determine if you are eligible for more extensive legal help. We will not share this info with anyone outside of our office. We may provide legal information and advice by phone. In certain cases, we may provide legal assistance or representation. If we cannot handle your issue, we will try to give you guidance on other legal groups to contact. *Unfortunately, no walk-in’s are accepted.*



TOLL FREE HELP LINES

ENGLISH: 888.349.9695

中文：800.520.2356

한글：800.867.3640

TAGALOG: 855.300.2552

ภาษาไทย：800.914.9583

TIẾNG VIỆT: 714.477.2958



ASIAN AMERICANS
**ADVANCING
JUSTICE**
LOS ANGELES

INFO@ADVANCINGJUSTICE-LA.ORG

ADVANCINGJUSTICE-LA.ORG

EXHIBIT C

Bernabe v. 899 Charleston
Time and Task Chart for Mai Tulyathan

Hours	Description of Work
4.0	Factual investigation, review of file and client documents, review PAGA letter upon assignment to case.
5.6	Draft complaint; further review and revise complaint
0.8	Review the Court's Covid-19 emergency order re: complex civil actions and Court's Order Deeming Case Complex
3.9	Meet and confer with opposing counsel for case management conferences, draft, review and revise several joint statements in connection therewith
1.0	Meet and confer with opposing counsel regarding arbitrability
1.5	Prepare for and attend case management conference (September 23, 2020)
0.7	Review Defendant's Answer
2.9	Meet and confer with opposing counsel regarding mediation; draft and prepare informal discovery request in connection with mediation
1.6	Prepare for and conduct joint pre-mediation call with mediator Michael Dickstein
11.7	Review and analyze production of informal discovery for mediation, including class payroll and time data, wage statements, and documents re: Defendant's various policies; numerous meet and confer telephonic and email communications with opposing counsel regarding data
4.7	Further discussions and correspondence with new counsel regarding status of case, mediation, outstanding data, and sick pay claim; review further documents produced regarding sick pay/PTO policy and shift differentials
3.2	Meet and confer with expert regarding data for mediation analysis; review workbook/analysis from expert; further meet and confer regarding workbook
6.8	Draft mediation brief; conduct legal research in connection with same; revise and revise brief
8.5	Attend mediation
3.5	Draft, review and revise MOU; further confer with opposing counsel regarding the terms therein
10.4	Draft, review and revise long-form settlement agreement; confer with opposing counsel regarding terms therein; further review and revise same
3.8	Review and revise class notice to be sent to class members; confer with opposing counsel regarding same
0.3	Confer with settlement administrator regarding administration and admin expenses

2.1	Draft stipulation and First Amended Complaint; confer with opposing counsel regarding same
14.2	Draft motion for preliminary approval of settlement, proposed order, and supporting documents; further revise same
1.2	Review the Court's tentative ruling granting preliminary approval of settlement; further revise class notice pursuant to the Court's instructions and meet and confer with opposing counsel regarding same
1.0	Confer with settlement administrator regarding administration timeline and dissemination of class notice
1.2	Review weekly mailing reports from settlement administrator; confer with settlement administrator regarding final approval
12.7	Draft motion for final approval of settlement, proposed order, and supporting documents; further revise same
<u>107.3</u>	<u>TOTAL HOURS</u>

EXHIBIT D

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DIVERSITY LAW GROUP
Slip Listing

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Selection Criteria

Slip Classification Open
Client (hand select) Include: Bernabe, Sylvia v. 899
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
62109	EXP	Olympia	1	75.00	75.00
4/6/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
LWDA					
62506	EXP	Olympia	1	6.90	6.90
4/30/2020		Postage			
WIP		Bernabe, Sylvia v. 899			
Postage					
62582	EXP	Olympia	1	1483.77	1483.77
5/8/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - COmplaint					
62596	EXP	Olympia	1	5.72	5.72
5/15/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Notice of Withdrawal					
62813	EXP	Olympia	1	131.19	131.19
5/15/2020		Atty Service			
WIP		Bernabe, Sylvia v. 899			
Attorney Service - Complaint Service					
62756	EXP	Olympia	1	5.72	5.72
6/5/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - POS of Summons					
64114	EXP	Olympia	1	5.72	5.72
9/18/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Joint CMS					
64129	EXP	Mai Tulyathan	1	94.00	94.00
9/23/2020		Court fees			
WIP		Bernabe, Sylvia v. 899			
Courtcall					

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DIVERSITY LAW GROUP
Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
65242	EXP	Olympia	1	11500.00	11500.00
12/11/2020		Arbitrators			
WIP		Bernabe, Sylvia v. 899			
Michael Dickstein Mediation					
65555	EXP	Olympia	1	5.72	5.72
1/8/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Joint CMS					
67302	EXP	Larry W. Lee	1	20.02	20.02
4/14/2021		Meals			
WIP		Bernabe, Sylvia v. 899			
Meal					
67090	EXP	Erika Mejia	1	5.72	5.72
4/30/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Joint CMS					
68141	EXP	Erika Mejia	1	26.32	26.32
7/15/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Stip to file FAC					
68131	EXP	Olympia	1	5.72	5.72
7/16/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Notice of Entry of Order & FAC					
68222	EXP	Erika Mejia	1	67.52	67.52
7/27/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - MPA					
68236	EXP	Erika Mejia	1	5.72	5.72
7/28/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Decl of KT iso MPA					
68580	EXP	Erika Mejia	1	5.72	5.72
8/19/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Odyssey - Notice of Lodging Revised Settlement Notice					
68952	EXP	Olympia	1	1117.20	1117.20
9/15/2021		Experts			
WIP		Bernabe, Sylvia v. 899			
Econ One					

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DIVERSITY LAW GROUP
Slip Listing

Page 3

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
69515	EXP	Olympia	1	500.00	500.00
10/29/2021		Court fees			
WIP		Bernabe, Sylvia v. 899			
Final Approval Fees					
Grand Total					
			Billable	0.00	15067.68
			Unbillable	0.00	0.00
			Total	0.00	15067.68