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Attorneys for Plaintiff and the Class

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

ERNESTO DELGADO,

Plaintiffs,

vs.

KLOECKNER METALS  
CORPORATION, et al.

Defendants.

Case No. 2:20-cv-07405-GW-SK

Assigned to Hon. Judge George H. Wu

**DECLARATION OF KRISTEN M.  
AGNEW IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS AND REPRESENTATIVE  
ACTION SETTLEMENT**

Date: November 8, 2021

Time: 8:30 a.m.

Courtroom: 9D, 9<sup>th</sup> Floor

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I, Kristen M. Agnew, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., of record for Plaintiff Ernesto Delgado (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. I am one of the primary attorneys on this matter. My qualifications are as follows: I was the 2003 recipient of the Spelman Presidential Scholarship to Spelman College School of Law. During law school, I was a summer associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta Office of the Equal Employment Opportunity Commission. I received my J.D. from Spelman College in 2006 and was admitted to the California Bar in December 2006. Following law school, I was an associate at Sonnenschein from September 2006 to May 2009.

3. Since 2009, my primary area of practice has been employment law. I have practiced law at two preeminent employment defense firms. From 2009 to June 2011, I was an associate at Ogletree, Deakins, Nash, Smoak & Stutzman, P.C. I was also an associate, and then senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500 companies in employment litigation in both state and federal courts, as well as various government agencies, including the California Department of Labor. My practice included the defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I also handled a number of wage and hour class actions.

4. In June 2016, I joined Diversity Law Group, P.C. where I spend most

1 of my time handling employment cases. I primarily represent employees.

2         5. I served as the lead associate on a number of wage and hour class  
3 actions, including *Martha Cardenas v. Gold's Gym*, Los Angeles County Superior  
4 Court Case No. BC445112; *Nathaniel Werner v. Crown Equipment Corporation*,  
5 Los Angeles County Superior Court Case No. BC439428; *Christopher Williams v.*  
6 *Allstate Insurance Co.*, Los Angeles County Superior Court Case No. BC382577;  
7 *Hwang v. Caltech*, Los Angeles County Superior Court Case No. BC464894;  
8 *Melissa Roberts v. Zale Delaware, Inc.*, Los Angeles Superior Court Case No.  
9 BC523610; *Michael Oliver v. Konica Minolta Business Solutions U.S.A., Inc.*,  
10 Santa Clara County Superior Court Case No. 114-CV-263183; *Tessa Hodge v.*  
11 *Zale Delaware, Inc., d/b/a Piercing Pagoda*, San Bernardino Superior Court Case  
12 No CIVVS1301632; *Warren v. Paychex, Inc.*, N.D. Cal. Case No. 3:10-cv-02006;  
13 *Tapia v. Zale Delaware Inc. et al*, S.D. Cal. Case No. 3:13-cv-01565; and  
14 *Benjamin Burgess et al v. Tesoro Refining and Marketing Company et al*, C.D.  
15 Cal. Case No. 2:10-cv-05870.

16         6. I have been approved as class counsel in numerous other wage/hour  
17 class actions that have been granted class certification and final approval,  
18 including: *Antonio Becerra-Mata v. PSC Industrial Outsourcing, LP*, San Benito  
19 County Superior Court Case No. CU-15-00030; *Kosal So v. Owens-Brockway*  
20 *Glass Container, Inc.*, Los Angeles County Superior Court Case No. BC608609;  
21 *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case No.  
22 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*,  
23 Santa Clara County Superior Court Case No. 17CV306751; *Foaad Hanna v.*  
24 *Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia*  
25 *Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144;  
26 *Mary Della Maggiora v. Watsonville Community Hospital*, Santa Cruz Superior  
27 Court Case No. 18CV00191; and *Michael Randolph v. Pacific Racing Association*,  
28 Alameda County Superior Court Case No. RG18908139.

1           7.       I also second chaired two jury trials where I represented the prevailing  
2 defendant. Both cases involved employees who brought claims against their former  
3 employers pursuant to the Fair Employment & Housing Act. The cases are: *Jeff*  
4 *Cowell v. Eaton Aerospace LLC et al*, Los Angeles County Superior Court Case  
5 No. BC401543; and *Richard Gulden v. Pratt & Whitney Rocketdyne Inc. et al.*, Los  
6 Angeles County Superior Court Case No. BC468909.

7           8.       Plaintiff and his counsel conducted an extensive investigation of the  
8 factual allegations involved in this case since the inception. Specifically, Plaintiff's  
9 counsel propounded special interrogatories and requests for production of  
10 documents, obtained and reviewed discovery responses and Defendant's document  
11 production, and took the depositions of Defendant's FRCP 30(b)(6) witnesses  
12 regarding its meal and rest break and payroll policies and procedures. Plaintiff's  
13 counsel also communicated with various class members regarding the claims in  
14 this lawsuit.

15           9.       Each side has apprised the other of their respective factual  
16 contentions, legal theories and defenses, resulting in extensive arm's-length  
17 negotiations taking place among the Parties. Although Plaintiff's counsel are  
18 certain that they can prevail on class certification, as well as on the merits, they  
19 recognize the inherent risks in drawn-out litigation, including that Plaintiff could  
20 fail to establish liability. Based on their own independent investigation and  
21 evaluation, the Parties and their respective counsel are of the opinion that the  
22 settlement for the consideration and on the terms set forth in the Joint Stipulation  
23 of Class and Representative Action Settlement Agreement and Release  
24 ("Settlement Agreement") are fair, reasonable, and adequate and the settlement is  
25 in the best interests of the class and Defendant in light of all known circumstances  
26 and the expenses and risks inherent in litigation.

27           10.      Plaintiff also believes in the fairness of the settlement that is based on  
28 factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one

1 or more of the causes of action or theories alleged in the operative Complaint and  
2 the possibility of appeals.

3 11. Plaintiff and Plaintiff's counsel are adequate representatives in that  
4 they have no conflicts with the class and will adequately represent the class.

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

8 Executed on October 8, 2021, at Los Angeles, California.

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12 Kristen M. Agnew  
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