

1 Raymond P. Boucher, State Bar No. 115364
ray@boucher.la
2 Maria L. Weitz, Esq. State Bar No. 268100
weitz@boucher.la
3 Alexander Gamez, State Bar No. 309708
gamez@boucher.la
4 BOUCHER LLP
21600 Oxnard Street, Suite 600
5 Woodland Hills, California 91367-4903
Tel: (818) 340-5400
6 Fax: (818) 340-5401

7 [ADDITIONAL COUNSEL LISTED ON
FOLLOWING PAGE]

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

10 TERRY HIATT, on behalf of himself and all
11 "aggrieved employees" pursuant to Labor code
§ 2698 *et. seq.*,

12 Plaintiff,

13 v.

14 TNH MOTORS, INC., a California
15 corporation, d/b/a NORTH HOLLYWOOD
TOYOTA; and DOES 1 through 50, inclusive,

16 Defendants.
17

Case No. 19BBCV00974 (Lead)
20STCV25676 (Related)

Assigned to John Kralik, Dept. B

**DECLARATION OF RAYMOND. P.
BOUCHER IN SUPPORT OF
STIPULATION AND [PROPOSED]
ORDER CONSOLIDATING RELATED
ACTIONS FOR ALL PURPOSES,
APPROVING SETTLEMENT OF
PRIVATE ATTORNEYS GENERAL ACT
CLAIMS, AND DISMISSING ACTIONS
WITH PREJUDICE**

Assigned for All Purposes to:
Hon. John Kralik, Dept. B6,

Action Filed: July 8, 2020
Trial Date: Not Set

21 OSCAR RUIZ-GARCIA, Aggrieved
Employee of Defendants, for the State of
22 California's Labor and Workforce
Development Agency on Behalf of All
23 Aggrieved Employees of Defendants,

24 Plaintiff,

25 v.

26 TNH MOTORS, INC., a California
Corporation, and DOES 1-100, Inclusive,

27 Defendants.
28

1 Sahag Majarian II, State Bar No. 146621
sahagii@aol.com
2 LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
3 Tarzana, California 91356
Tel: (818) 609-0807
4 Fax: (818) 609-0892

5 *Attorneys for Plaintiff Oscar Ruiz-Garcia,*
6 *an Aggrieved Employee of Defendants,*
7 *for the State of California's Labor and*
8 *Workforce Development Agency on Behalf*
9 *of All Aggrieved Employees of Defendants*
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4

5
6
7
8
9
10
11
12
13
14
15
16

17
18
19
20

21
22
23
24
25
26
27
28

1 a. *Acosta v. Remington Lodging & Hospitality, LLC, et al.*, Case No. MSC 16-
2 02404 (Superior Court of California, County of Contra Costa). Wage and hour class action. The
3 Court granted certification as to certain claims and appointed our firm as Class Counsel. The case
4 is pending.

5 b. *Adlouni v. UCLA Health Systems Auxiliary, et al.*, Lead Case No.
6 BC589243 (Superior Court of California, County of Los Angeles): Consolidated and related class
7 action cases arising from data breach of medical patient information. Final approval granted.
8 Boucher LLP is court-appointed Liaison Counsel for Plaintiffs.

9 c. *Abrica v. Tosco et al.*, Case No. BC239882 (Superior Court of California,
10 County of Los Angeles): Mass tort relating to toxic refinery fire, which resolved successfully.

11 d. *Bartley v. Camarillo Miramonte Homeowners Association*, Case No.
12 SC020953 (Superior Court of California, Ventura County). Class action against real estate
13 developers on behalf of individual unit owners of a condominium project for faulty construction
14 and repairs. The units were constructed over a high-water table and on poor soils which expanded
15 and contracted, causing the units to sink, and causing floor slabs, foundations, and walls to crack.
16 The defendants knew about the defects but did not disclose them. After receiving complaints,
17 developers failed to repair as promised. Homeowners complained the repairs were not performed,
18 or were not performed improperly. Resolved on eve of trial.

19 e. *Black v. Blue Cross*, Case No. BC250339 (Superior Court of California,
20 County of Los Angeles): Certified class action against a health insurer for improper mid-year
21 contract modifications which led to a \$22.5 million settlement.

22 f. *Bustamante v. Southern California Gas Company, et al.*, Case No.
23 BC285598 (Superior Court of California, County of Los Angeles): Class action against energy
24 companies on behalf of California citizens for manipulation of the market for natural gas by
25 reporting false price and volume information to the price indices and industry publications that
26 were used to establish the cost of natural gas to end users, and the value of natural gas in the
27 commodities markets.

28 g. *Chavez v. Nestle USA, Inc.*, Case No.: CV09-9192 GW (CWx) (C.D. Cal.):

1 Class action to recover for false advertising in the marketing of a beverage for infants.

2 h. *Clergy Cases I & II*, California Judicial Council Coordinated Proceedings
3 (“JCCPs”) 4286, 4297, and 4359: Litigated childhood sexual abuse cases against the Archdioceses
4 of Los Angeles, San Diego, and Orange and other Catholic entities with the total settlement
5 exceeding \$1.2 billion.

6 i. *Colin Higgins Productions, LTD. v. Universal City Studios, LLC*, Case No.
7 BC499180 (Superior Court of California, County of Los Angeles). Class action against movie
8 studio arising from studio’s calculation of profit participation from home video distribution of
9 films. Final approval of class action settlement granted. Boucher LLP served as Co-Class Counsel.

10 j. *Colin Higgins Productions, LTD. v. Paramount Pictures Corporation*, Case
11 No. BC499179 (Superior Court of California, County of Los Angeles). Class action against movie
12 studio arising from studio’s calculation of profit participation from home video distribution of
13 films. Final approval of class action settlement granted. Boucher LLP served as Co-Class Counsel.

14 k. *Coss v. Northgate Gonzalez Markets, et al.*, Lead Case No. 37-2017-
15 00030774-CU-OE-CTL (Superior Court of California, County of San Diego). Three consolidated
16 PAGA actions against grocery chain on behalf of the State of California’s Labor and Workforce
17 Development Agency for certain alleged violations of California’s Labor Code. Settled for \$2.3M
18 and settlement approval was granted in July 2020.

19 l. *Del Campo v. Hometown Buffet, Inc. et al.*, C.D. Cal. 2:14-cv-04378-RGK-
20 SH. Court-appointed as Class Counsel in “wage and hour” class action against major restaurant
21 chain. Final approval of settlement granted.

22 m. *Espinoza, et al. v. Vander-Bend Manufacturing, LLC*, Santa Clara County
23 Superior Court Case No. 1-15-CV-283929. Court-appointed as Class Counsel in “wage and hour”
24 class and representative PAGA action on behalf of employees of Defendant. Final approval of
25 settlement granted.

26 n. *Juarez v. Dignity Health*, Los Angeles Superior Court Case No. BC550950.
27 Class Counsel in certified class action case against hospital chain on behalf of security guards
28 involving donning and doffing and other “wage and hour” claims. Final approval of settlement

1 granted.

2 o. *In Re Crestor Products Liability Cases*, California JCCP No. 4713.

3 Appointed Plaintiffs' Co-Lead and Co-Liaison Counsel in coordinated proceeding involving
4 alleged personal injuries from ingestion and use of prescription drug Crestor. Settled.

5 p. *In re Transient Occupancy Tax Cases*, California JCCP 4472: Represented
6 the City of Los Angeles in a class action proceeding on behalf of all cities in the state of California
7 to recover unremitted occupancy taxes from certain online travel companies.

8 q. *In re Galvanized Steel Pipe Litigation*, Case No. BC174649 (Superior Court
9 of California, County of Los Angeles): Class action involving construction defects that resolved
10 successfully for \$41 million.

11 r. *In re Wholesale Electricity Antitrust Cases I & II*, California JCCP 4204-
12 00005 and 4204-00006: Actions in which the plaintiffs sought to recover damages from energy
13 traders for unfair business practices.

14 s. *In re Wellpoint, Inc. Out-of-Network "UCR" Rates Litig.*, MDL No. 09-
15 2074 (C.D. Cal.): Served in a leadership role in a consolidated action to recover for anti-
16 competitive price fixing and for artificial deflation of medical payments and reimbursements,
17 leading to underpayments to doctors for medical care that they provided, and to artificially high
18 charges for out-of-pocket costs to insured individuals for medical care that they received.

19 t. *In Re: Wright Medical Technology, Inc., Conserve Hip Implant Products*
20 *Liability Litigation*, MDL No. 2329 and Wright California JCCP. Co-Lead Counsel and Plaintiffs'
21 Steering Committees in complex national and state complex litigations involving defective hip
22 system product.

23 u. *Lopez, et al. v. Citrus Valley Health Partners, Inc.*, Super. Ct., Los Angeles
24 County, Case Nos. BC544139 and BC545110. Court-appointed as Class Counsel in "wage and
25 hour" class actions against a large California hospital entity (same defendant as in this case). Final
26 approval of settlement granted.

27 v. *Moppin v. Los Robles Regional Medical Center, et al.*, Case No. 5:15-CV-
28 01551-JGB-DTB (C.D. Cal.). Court-appointed as Class Counsel in "wage and hour" class action

1 against hospital entity and travel nurse staffing agency on behalf of temporary nurse employees.
2 Final approval of settlement granted.

3 w. *Securitas Wage and Hour Cases*, California JCCP No. 4837. Appointed
4 Lead and Co-Liaison Counsel in coordinated class action proceedings against security company
5 on behalf of security guards.

6 x. *Silver v. Del Webb*, Nevada Case No. A437325: A certified class
7 construction defect suit involving the installation of faulty plumbing systems in new homes. The
8 litigation resulted in a \$21 million settlement.

9 y. *Skeen, et al. v. BMW of North America LLC, et al.*, Case No. 2:13-cv-1531-
10 WHW-CLW (Dist. N.J.) Appointed Co-Lead Class Counsel in nationwide class action involving
11 alleged claims for breach of warranties and violations of state consumer protection statutes for
12 automobile defects in Mini vehicles. Final approval of settlement granted.

13 z. *Southern California Gas Leak Cases*, California JCCP No. 4861. Appointed
14 to Private Plaintiffs' Steering Committee and serving as a Co-Chair for the Class Action Track in
15 mass, complex civil cases arising from natural gas leak commencing on or about October 23,
16 2015.

17 aa. *Zoloft Birth Defects Cases*, JCCP No. 4771. Appointed Plaintiffs' Co-Lead
18 Counsel in coordinated proceeding involving alleged birth defect claims arising from mother
19 plaintiffs' use and ingesting of prescription anti-depressant drug.

20 5. On or about May 1, 2020, my firm, on behalf of Plaintiff Ruiz-Garcia, caused to be
21 submitted online a PAGA Notice to the LWDA, advising the LWDA of his aggrieved employee
22 status and intent to pursue, on behalf of the LWDA, civil penalties for Defendant's alleged
23 violations of certain California labor laws identified therein, along with facts and theories
24 supporting Plaintiff's claim. My firm also provided a copy thereof to Defendant's agents for
25 service, and paid the filing fee pursuant to Labor Code section 2699.3. Attached As **Exhibit C** is a
26 true and correct copy of Plaintiff's PAGA Notice. After Plaintiff's separation of employment with
27 Defendant in or around June 2020, on July 7, 2020 Plaintiff filed and served an Amended PAGA
28 Notice to add an additional underlying claim for failure to pay all wages upon separation of

1 employment. Attached As **Exhibit D** is a true and correct copy of Plaintiff's Amended PAGA
2 Notice.

3 6. On July 8, 2020, Plaintiff filed the above-captioned case in the Los Angeles
4 Superior Court seeking PAGA penalties for Defendant's alleged violations of Labor Code §§ 204,
5 226(a), 226.3, 226.7, 510, 512, 558, 1194, 1197, 1198, and 1199.

6 7. My firm, on behalf of Plaintiff Ruiz-Garcia, Gaines & Gaines ALPC, on behalf of
7 Plaintiff Hiatt in the matter entitled *Hiatt v. TNH Motors, Inc.*, LASC Case No. 19BBCV00974,
8 and Defendant's counsel, have conducted substantial investigation and have exchanged
9 information and data concerning the alleged claims, defenses, and penalties at issue in the two
10 PAGA cases. The Parties also engaged in extensive adversarial and arms-length negotiations,
11 including the first all-day mediation with Mariam Zadeh, Esq on February 22, 2021, who is highly
12 regarded for her extensive experience mediating in labor and employment litigation. As a result,
13 through the Parties' arms-length negotiation efforts, Plaintiffs and Defendant reached an
14 agreement concerning the terms included within the proposed Settlement Agreement. (See Exhibit
15 C to Declaration of Daniel F. Gaines.)

16 8. My firm is sufficiently familiar with the facts of the case and the applicable state
17 laws to make an informed judgment as to the fairness of the settlement. As Plaintiff's counsel, we
18 conducted substantial investigation into the alleged "wage and hour" labor law violations prior to
19 submission of PAGA Notices to the LWDA and filing of the lawsuit, and continued our
20 investigation and analysis through the informal exchange of discovery in preparation for
21 mediation, including reviewing documents and records produced by Defendant, analyzing
22 Defendant's policies and procedures relating the alleged claims, and analyzing time-keeping and
23 payroll data related to the alleged claims. The data points included: the total number of non-
24 exempt employees in California; total number of former non-exempt employees in California; and
25 the total number of pay periods for non-exempt employees in California. We also investigated,
26 researched, analyzed and considered the applicable law regarding the alleged claims, the defenses
27 thereto, and the relief and remedies claimed by Plaintiffs. Moreover, our interviews with Plaintiff
28 provided valuable insight into the nature of Defendant's day-to-day operations and policies and

1 practices. Based thereon, we were able to intelligently evaluate the strength and value of the
2 PAGA claims.

3 9. My colleagues representing Plaintiff and I believe the Settlement is fair, reasonable,
4 adequate, and thus warrants approval by the Court given the inherent risk, cost, and length of
5 litigation. The amount recovered is fair and reasonable based on a review of all objective
6 evidence. The settlement that has been reached, subject to this Court's approval, is the product of
7 significant effort and expense.

8 10. The settlement amount is, of course, a compromise figure. Plaintiff and his counsel
9 took into account the risks related to proof of Plaintiffs' PAGA claims, and the strengths and
10 weaknesses of Defendant's defenses. The proposed settlement also took into account the
11 possibility that if a settlement were reached after additional years of litigation, the great amount of
12 additional expenses and attorneys' fees of protracted litigation would reduce the amount of funds
13 available to the LWDA, Plaintiffs, and Defendant's employees for settlement. We also took into
14 consideration the time, delay, expense, and financial repercussions of trial and the possibility of a
15 protracted appeal by Defendant.

16 11. In our judgment, and based on my consideration of the claims and defenses alleged,
17 the settlement is a fair, adequate, and reasonable resolution of the subject claims. Plaintiffs
18 obtained a PAGA settlement for the benefit of the State's LWDA and Aggrieved Employees,
19 whereby Defendant agrees, in consideration for the release of the PAGA claims against
20 Defendant, to pay \$319,200 to settle this Action.

21 12. On April 28, 2021, Plaintiff submitted the proposed Settlement Agreement to the
22 LWDA through the State of California, Department of Industrial Relations Website at
23 <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.,
24 pursuant to Labor Code § 2699(1)(2).

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Executed on this 28th day of April, 2021, at Woodland Hills, California.

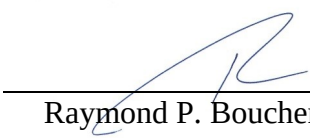

Raymond P. Boucher

Exhibit A

BOUCHER LLP

Founded by Raymond P. Boucher—Los Angeles Daily Journal’s Trial Lawyer of the Decade (2001-2010)—Boucher LLP focuses on the prosecution of high-impact, complex litigation, including class actions, mass actions, and representative actions on behalf of consumers and employees harmed by major corporations and insurance companies; civil rights and police misconduct cases; cases involving the sexual abuse of minors and disabled; and significant personal injury and wrongful death cases. Boucher and his colleagues are frequently appointed class counsel in major class actions and often serve among plaintiffs’ leadership in state and federal coordinated proceedings.

Boucher’s successes include a groundbreaking \$1 billion settlement on behalf of the victims of childhood sexual abuse by Catholic priests. He has long been a trusted resource for referring attorneys. His skill and tenacity also make him sought after as co-counsel.

Boucher built the firm from the ground up, handpicking dynamic, talented, and experienced attorneys who share his vision and values. Clients can expect meticulous preparation and tenacious, relentless representation, as well as highly individualized and compassionate service.

EXPERTISE AND RESOURCES

Boucher LLP has the expertise and resources to handle cases against major corporations from intake through trial. The firm is well-equipped to conduct discovery in a variety of cases, including large complex cases. Sophisticated technology and analytical protocols are employed to capture, evaluate, and present information gleaned from documents numbering in the multi-millions. In coordinated proceedings, the firm has the experience and leadership qualities needed to effectively manage resources to ensure efficiency of litigation.

Consumer Class Actions

The firm has extensive experience with consumer class action litigation and the relevant issues in evaluating and settling class action claims. Boucher LLP’s attorneys have litigated and certified consumer class actions in a range of areas—from automotive and other product defects, to privacy and data breach, to antitrust, breach of contract, and other business disputes.

Boucher LLP’s attorneys have served as lead class counsel and/or on the plaintiffs’ steering committee in numerous consumer class action cases including, *In Re Aetna UCR Litigation*, Dist. N.J., MDL No. 2020 (Class Counsel), *American Medical Association et al. v. Wellpoint, Inc.*, C.D. Cal, MDL No. 2074 (Interim Co-Lead Class Counsel), *Black v. Blue Cross of California*, Super. Ct. Los Angeles County, No. BC250339 (Class Counsel), *Chavez v. Nestlé USA, Inc.* C.D. Cal., No. CV09-9192 GW (CWx) (Lead Counsel), *In Re: Facebook, Inc. Internet Tracking Litig.*, N.D. Cal., MDL No. 2314 (Interim Liaison Counsel), *In Re Galvanized Steel Pipe Litigation*, Super. Ct. Los Angeles County, No. BC174649 (Lead Class Counsel), *In re: Pellicano Cases*, Super. Ct. Los Angeles County No. BC316318 (Co-Lead Class Counsel), *Sister Sledge et al. v. Warner Music Group Corp.*, N.D. Cal., No. 12-CV-0559-RS (Interim Co-Lead Class Counsel), and *Skeen, et al. v. BMW of North America LLC, et al.*, Dist. N.J., No. 2:13-cv-1531-WHW-CLW (Co-Lead Class Counsel).

Employment Class and Representative Actions

Boucher LLP is currently prosecuting numerous class and representative cases against corporations on behalf of thousands of workers alleging wage-and-hour violations, including claims for violations of meal and rest break laws, illegal rounding of time, and failure to pay all wages. The firm is committed to ensuring employees are properly compensated under state and federal laws, and to holding corporations accountable for failing to abide by the law.

Mass Tort Litigation

Boucher LLP's attorneys have obtained favorable recoveries for thousands of clients harmed by major pharmaceutical companies. Boucher presently serves in leadership for numerous coordinated proceedings in state and federal court, including *In Re Crestor Products Liability Cases*, Super. Ct. Los Angeles County, JCCP No. 4713 (Plaintiffs' Co-Liaison Counsel), *In Re Diet Drug Litigation*, Super. Ct. Los Angeles County, JCCP 4032 (Plaintiffs' Co-Liaison Counsel), *In re Wright Medical Technology, Inc., Conserve Hip Implant Products Liability Litigation*, MDL No. 2329 (Co-Lead Counsel for Plaintiffs and state Liaison Counsel), and *Zolof Birth Defects Cases*, JCCP No. 4771 (Plaintiffs' Co-Lead Counsel).

Boucher LLP's attorneys have also successfully resolved mass tort cases involving toxic exposure, including, among others, *Bunker Hill Twrs Condo Ass'n, et al. v. W.R. Grace & Co.*, Super. Ct. Los Angeles County, No. B072642, and *Zachary et al. v. ARCO et al.*, Super. Ct. Los Angeles County, No. BC209944.

Complex, High-Impact Litigation

Boucher LLP is committed to advancing the rights of the people and to holding corporations accountable. Throughout his career, Mr. Boucher has brought worthy cases in furtherance of these goals. For example, in the *California Gubernatorial Recall Election Litigation*, Boucher represented former Governor Gray Davis in a challenge to the qualification of the 2003 California gubernatorial recall election. In *Madrid v. Perot Systems Corporation et al.*, Super. Ct. Sacramento County, No. 03AS04763, Boucher resolved an antitrust and unfair competition action to recover from Perot Systems Corporation for aiding and abetting the manipulation, distortion, and corruption of California's electricity market. More recently, in *Centinela Freeman Emergency Medical Associates, et al. v. Maxwell-Jolly, et al.*, Super. Ct. Los Angeles County, No. BC406372, Boucher and his partners obtained an order compelling California's Department of Health Care Services to comply—for the first time ever—with their obligation to annually review of Medi-Cal physician reimbursement rates to ensure access to quality healthcare in California. These are but a few of the many "impact" cases Boucher and his colleagues have pursued in the interest of positive social change.

Civil Rights and Police Misconduct Cases

Boucher LLP prosecutes individual, mass, and class actions against public entities for civil rights violations and police misconduct. The firm is committed to helping people obtain justice and to motivating significant policy changes.

Boucher is particularly proud of the published result in *Wallace v. City of Los Angeles* (1993) 12 Cal. App. 4th 1385, a case of first impression he brought against the City on behalf of Demetria Wallace, a teenaged honors student who was shot and killed while waiting for a bus, just five days before she was to testify against a man accused of fatally shooting a taxi driver. After non-suit was granted at trial, the appeals court held the police had a duty to warn the victim. The case affirmed the government's responsibility to protect citizens who place their lives in jeopardy by stepping forward as witnesses to crimes, and prompted changes in police procedures that have saved countless other witnesses' lives since.

Sexual Abuse Cases

Boucher LLP prosecutes individual and mass action cases against public and private entities that fail to protect minors and the disabled from sexual abuse. The firm's attorneys have extensive experience representing survivors of sexual abuse in such cases.

For example, in *The Clergy Cases*, Super. Ct. California, JCCP Nos. 4286, 4297, 4359, Boucher served as Plaintiffs' Liaison Counsel on behalf of almost 1,000 individuals and their families in significant personal injury claims involving molestation at the hands of Catholic priests. In *Jane Doe v. Garden Grove Unified School District*, Boucher prosecuted claims on behalf of a child victim of sexual abuse at school against a public school district. *Elena A. et al. v. Casa de Angeles Cal. Corp., d/b/a Healthy Start, et al.*, Super. Ct. Los Angeles County, No. BC457840, was brought on behalf of developmentally disabled adults who were subjected to serious verbal, physical, and sexual abuse and neglect while attending an adult day care center. And Boucher was a leader in *Los Angeles Unified School District Sexual Molestation Cases*, which were brought on behalf of the many children who were molested by a teacher at Miramonte Elementary School.

Significant Personal Injury and Wrongful Death

Boucher LLP represents individuals who have suffered serious personal injury or the death of loved ones.

The firm is committed to obtaining the justice that its clients deserve. For example, in *Young v. Johnny's Hot Dog Stand, et al.*, Super. Ct. Los Angeles County, No. BC102837, Boucher obtained a jury verdict in excess of \$1 million in compensatory damages on behalf of 57-year-old indigent person who was shot by a waitress outside of a hot dog stand. The firm is also passionate about seeking justice on behalf of children and adults who have suffered serious injuries from in apparel fires.

BOUCHER LLP

RAYMOND P. BOUCHER

Raymond P. Boucher, a veteran trial lawyer specializing in complex consumer litigation, class actions, product liability, toxic tort litigation, employment discrimination and bad faith, is the Founder and Senior Partner of Boucher LLP.

During his professional career, which spans three decades, Boucher has tried more than 50 cases, and has helped obtain verdicts and settlements on behalf of clients in excess of \$3 billion. In two of his more notable cases, he served as lead attorney in the landmark \$660 million sexual abuse settlement with the Catholic Archdiocese of Los Angeles in which he represented over 250 abuse victims in the July 2007 settlement as well as obtaining nearly \$200 million for 144 survivors in a lawsuit against the Roman Catholic Diocese of San Diego. Boucher has briefed and argued more than 20 appeals before the Ninth Circuit Court of Appeals and California Courts of Appeal.

For his professional achievements, Boucher has received a diverse array of honors and awards, to include recognition as: “Top 100 Attorneys in California” (2002) by the Daily Journal; “Trial Lawyers of the Decade, “ (2001-2010) by the Daily Journal; “California Lawyer Attorney of the Year” (2008) by California Lawyer; “Consumer Attorney of the Year” (2007) by the Consumer Attorneys of California; and “Trial Lawyer of the Year” by the Consumer Attorneys Association of Los Angeles (additional awards listed below).

A noted author and lecturer, Boucher has lectured at numerous law schools (e.g. Stanford, Pepperdine, Loyola) and has delivered hundreds of presentations to bar associations and other legal organizations as well as legal media sponsored events and educational and government forums.

Prior to founding Boucher, LLP, Boucher served several other Los Angeles area law firms, including: Kiesel, Boucher & Larson LLP (Partner), Law Offices of Raymond P. Boucher (Founder/Senior Partner), Nordstrom, Steele, Nicolette & Jefferson (Of Counsel), Sayre, Moreno, Purcell & Boucher (Managing Partner), and Gould & Sayre.

A native of Massachusetts, Boucher received his undergraduate education at Fort Lewis College in Durango, CO where he received his Bachelor of Arts degree with a double major in Business Administration and Political Science.

He was Student Body President, on the Dean’s List and later was honored as its “Alumnus of the Year” (2007). He matriculated to Colorado State University where he received a Master of Science degree in Management. Boucher obtained his Juris Doctor degree from Pepperdine University School of Law While in law school, Boucher ranked in the top 15% of his class, was a member of the Phi Delta Phi honor society and later honored in 2002 with its Distinguished Alumnus Award. He received an Honorary Doctor of Law by Whittier College School of Law in 2005.

Boucher is admitted to the State Bar of California as well as the United States District Court for the Central, Northern, Southern and Eastern Districts of California. He is a member of, and has held leadership positions in, numerous legal professional entities, including:

- American Association for Justice, Member
- American Bar Association, Admitted as a Fellow of the American Bar
- Association of Trial Lawyers of America, State of California Delegate Member

BOUCHER LLP

- Beverly Hills Bar Association, Member
- California Courts, Administrative Office of the Courts (2002 to 2007), Committees: Court Funding, Complex Courts System, Court Integration
- California State Bar Association, Member
- Civil Justice Foundation, Member
- Consumer Attorneys Association of Los Angeles (Formerly the Los Angeles Trial Lawyers Association) President (2005), Board of Governors, Emeritus Member (2005 to present), Board of Governors, Member (1996 to 2006)
- Consumer Attorneys of California (Formerly the California Trial Lawyers Association, President (2007), Board of Governors (1997 to present)
- Consumer Attorneys of San Diego (2001 to present), Consumer Advocate of the Year (2007)
- Diversity in Law Foundation, Board of Directors
- Los Angeles County Bar Association, Board of Trustees (2000 to 2002)
- Los Angeles Superior Court Bench and Bar Committee (2001 to 2008)
- National College of Advocacy, Fellow
- Orange County Trial Lawyers Association, Member
- Pepperdine School of Law, Board of Visitors (1997 to present)
- Public Citizen, Member
- Public Justice (Formerly Trial Lawyers for Public Justice), Board of Directors (1996 to present), Member (1984 to present)
- The Roscoe Pound Foundation, Member

Among the other honors, awards and other forms of recognition Boucher has received for his professional achievements and accomplishments from legal, community, educational, nonprofit and media entities, include:

- American Association for Justice Steven J. Sharp Public Service Award (2008)
- Consumer Attorneys Association of Los Angeles Ted Horn Memorial Award in recognition of service to the California State Bar (2002), Finalist, Trial Lawyer of the Year (1996) , Several Presidential Awards for Outstanding Contribution to the Trial Bar
- Consumer Attorneys of California Legislative Champion Award (2002), Several Presidential Awards of Merit
- Consumer Attorneys of San Diego David S. Casey, Jr. Consumer Advocate Award (2006)
- California League of Conservation Voters Environmental Leadership Award (2005) for dedication to the environment and for fostering the public health rights of individuals
- Fort Lewis College, Durango, Colorado Alumnus of the Year (2007)

BOUCHER LLP

- Lawdragon Named one of 500 Leading Lawyers in America (2009-2014)
- Los Angeles Daily Journal Law Business Named one of the 100 Most Influential Attorneys in California several times
- Los Angeles Magazine Super Lawyer (2001 to present); named one of the Top 100 Super Lawyers in Southern California (2010 to present)
- Loyola Law School Champion of Justice Award (2008)
- Martindale-Hubbell, Peer Reviewed AV (highest rating)
- Orange County Trial Lawyers Association Top Gun Award (2008)
- Pepperdine University School of Law Distinguished Alumnus Award (2002)
- Project Sister Family Services Justice Armand Arabian Award (2006) for outstanding efforts to secure justice for victims of clergy abuse
- Trial Lawyers for Public Justice Trial Lawyer of the Year (1994)

Additionally, Boucher has been the recipient of presidential awards, awards of merit, recognition and commendation from federal, state and local government entities as well as a variety of bar associations.

Boucher, who resides in Tarzana, CA, is active in numerous business, civic, community and charitable organizations (e.g. Ambassador, Make a Wish Foundation). He is also active in fund raising for various local, state and national organizations for whom he has raised millions of dollars. He spends significant time doing pro bono work and frequently advises California Senate, Assembly and constitutional offices about legal and political issues.

BOUCHER LLP

SHEHNAZ M. BHUJWALA

Shehnaz M. Bhujwala, a strong advocate of consumer rights in civil courts and the California Legislature, is a partner of Boucher LLP.

Bhujwala helps consumers harmed by defective products, and those hurt by bad practices of corporations, employers, and governmental entities, obtain justice through the courts. She prosecutes class actions, mass torts, and representative actions among other complex civil cases in federal and California state courts.

Bhujwala, who has been recognized for her work as a consumer attorney as a “Southern California Rising Star” (2009-2011) and a “Super Lawyer” (2016-2017, 2019-2020) by both Los Angeles Magazine and Super Lawyers Magazine, and was bestowed with a Martindale-Hubbell “AV Preeminent” rating for her professionalism and ethics, has helped bring resolution to numerous cases through settlement and trials over the course of her legal career, including:

- A historic settlement on behalf of hundreds of survivors of childhood sexual abuse against the Los Angeles and San Diego Catholic Archdioceses
- A favorable settlement on behalf of a news reporter who suffered severe electrical burns and related injuries when her transmission truck hit overhead power lines
- A favorable settlement on behalf of survivors of historic mass kidnapping against kidnappers
- A class action settlement with the Writers Guild of America on behalf of writers to ensure the Guild’s payment of collected, foreign levy funds to them
- A class action settlement against telephone company for privacy violations on behalf of wiretap victims
- A class action settlement against bank for unlawful recording of telephone conversations with customers
- Numerous class action settlements against major movie studio on behalf of nationwide profit participants on film contracts who challenged how the studios paid them distributions based on home video revenue.
- Numerous class action and representative action settlements on behalf of workers for wage theft

Prior to joining Boucher LLP, Bhujwala worked for top plaintiffs’ firms in the Los Angeles area, including Khorrami Boucher, LLP, Kiesel Boucher & Larson, LLP, and Greene, Broillet, Panish & Wheeler, LLP.

An active author and speaker on consumer law subjects, Bhujwala is a member of, and has held leadership positions in, numerous professional organizations, including:

- Consumer Attorneys of California: Board of Governors (2011-2020); Chair, Women’s Caucus (2015); and Executive Committee (2016)
- Consumer Attorneys Association of Los Angeles: Board of Governors (2013-2014)

BOUCHER LLP

- Los Angeles County Bar Association: Litigation Section, Legislative Chair (2014-2016); Judicial Appointments Committee (2014-2017); Complex Courts Committee, Co-Chair (2016-2018); Programs (2018-2019); Federal Courts Committee (2019-2020); Officer (2020-2024).
- American Association for Justice
- Public Justice

Through her work with the Consumer Attorneys of California, Bhujwala also regularly speaks with California legislators regarding the need for sufficient court funding and other issues affecting the courts, consumers, and employees.

A California native and current resident of Los Angeles, Bhujwala received her undergraduate education at the University of California, Los Angeles where she obtained her Bachelor of Arts degree in Psychology in 1997. Thereafter, she attended the University of Southern California's Gould School of Law, where she obtained her Juris Doctor degree in 2002. During law school, she externed for the Honorable U.S. District Court Judge Robert M. Takasugi of the Central District of California and counseled victims of domestic violence through the Los Angeles County Bar Association's Barrister's Project.

BOUCHER LLP

BRIAN BUSH

Brian Bush, a trial lawyer who concentrates his legal practice in the areas of civil rights, personal injury and mass tort litigation, presently serves as Of Counsel to Boucher LLP.

Bush is admitted to the State Bar of California as well as the United States District Courts for the Central, Eastern and Northern Districts of California. Among his professional affiliations, he is a member of the American Association for Justice, Los Angeles County Bar Association and the Consumer Attorneys Association of Los Angeles (CAALA).

Bush received his Juris Doctor degree from Loyola Law School in Los Angeles. Throughout law school, Bush volunteered at the Los Angeles County District Attorney's Office. In his capacity as a certified law student, he presided over numerous felony preliminary hearings, evidence suppression hearings and also served as second chair for the prosecution in a child molestation trial.

While in law school, Bush competed in trial advocacy tournaments in California and New York as a member of Loyola's nationally-ranked Byrne Trial Advocacy Team and served as speaker, co-chair and vice president of Loyola's student chapter of CAALA. Additionally, at Loyola, he earned First Honors awards in White Collar Crimes, Cross Examination and Advanced Trial Advocacy.

A native of Seattle, WA, Bush attended Washington State University where he obtained a Bachelor of Arts degree in Communications with an Advertising Emphasis. At the university, he was on the Dean's Honor Roll (2001-2004), was a graduate of the WSU Honors College, served as President and Vice President of the Ad Club and was a member of the student chapter of the American Advertising Federation.

BOUCHER LLP

ALEXANDER GAMEZ

Alexander Gamez is an Associate of Boucher LLP. He is a member of the firm's complex employment team, representing employees in class actions and PAGA actions against employers who violate California and federal wage and hour laws. Alex has successfully helped the firm prosecute a wide range of employment violations for the benefit of employees.

Alex earned a Bachelor of Arts degrees in Political Science and graduated cum laude from California State University, Fullerton in 2012. Thereafter, Alex earned a Juris Doctor degree from Southwestern Law School in 2015. During law school, Alex clerked for the U.S. Equal Employment Opportunity Commission, served as a Student Coordinator for the National Lawyers Guild Court Watch Program, and also served as a member of the Public Interest Law Committee.

He also obtained numerous awards and distinctions during law school for his public interest and pro bono efforts.

Alex is a member of the State Bar of California and is licensed to practice in all California state courts. He is also a member of the Consumer Attorneys Association of Los Angeles (CAALA) and the California Employment Lawyers Association (CELA).

BOUCHER LLP

JASON KAYNE

Jason Kayne is an Associate of Boucher LLP. His practice includes complex personal injury cases, cases on behalf of sexual abuse victims, and complex consumer litigation. Licensed to practice law in both New York and California, Kayne gained a unique perspective from several years on the defense side in a variety of practice areas, including personal injury, motor vehicle negligence, professional negligence/malpractice, and construction accidents. He uses his knowledge of defense tactics to better advocate for justice on behalf of injured plaintiffs.

Kayne is admitted to the State Bars of California and New York, as well as the United States District Courts for the Southern and Eastern Districts of New York. He is a proud member of the Consumer Attorneys Association of Los Angeles (CAALA) and other professional organizations.

Kayne received his Juris Doctor in 2014 from Brooklyn Law School in Brooklyn, New York. Through the New York City Civil Court's Volunteer Lawyer for a Day (VLFD) program, he represented consumer debtors in settlement negotiations and helped vacate default judgments that favored predatory credit card lenders. He was also awarded the CALI Excellence for the Future distinction for his legal writing.

Prior to attending law school, Kayne attended Occidental College in his hometown of Los Angeles. He obtained a Bachelor of Arts degree in History in 2010.

BOUCHER LLP

CATHY KIM

Cathy Kim is an Associate of Boucher LLP. During her legal career, Cathy has focused her practice on representing individuals in mass tort litigation (e.g. products liability) against major pharmaceutical companies and medical device manufacturers in state and federal proceedings.

Cathy is admitted to the State Bar of California and the United States District Court, Central District of California. Among her professional affiliations, she is a member of Consumer Attorneys of California and the Korean American Bar Association.

Raised in Torrance, CA, Cathy attended the University of California, Los Angeles where she received a Bachelor of Arts degree in Business Economics with a minor in East Asian Languages and Cultures. Cathy graduated magna cum laude, was a member of Phi Beta Kappa Honor Society and the Golden Key International Honour Society, as well as being on the Provost's Honors List for six quarters.

Cathy matriculated to Loyola Law School in Los Angeles where she obtained her Juris Doctor degree while receiving numerous academic honors and recognition, including the First Honors Award in Advanced Legal Research. During law school, she served as a judicial extern to the Honorable Samuel L. Bufford in the United States Bankruptcy Court. Cathy also served as the Internal and External Vice President of the Asian Pacific American Law Students Association.

An accomplished musician (e.g. piano, violin) who has won many awards in competitions and performed in various orchestras, Cathy is active in community and cultural organizations. Among her involvements, she has served as a Korean-English translator for the Asian Pacific American Legal Center's Citizenship Workshops and Volunteer Income Tax Assistance.

BOUCHER LLP

NEIL M. LARSEN

Neil M. Larsen was an Associate of Boucher LLP.¹ He was a member of the firm's complex employment team, representing employees in class actions and PAGA actions against employers who violate California and federal wage and hour laws. Neil has successfully helped the firm prosecute and resolve a wide range of employment cases for the benefit of employees.

Neil earned a Bachelor of Arts degree in Law and Society from the University of California, Santa Barbara in 2004. He then went on to earn a Juris Doctor degree from Santa Clara University School of Law in 2011, where he participated in the Honors Moot Court program, contributed to the Journal of International Law, and represented indigent clients in wage and hour litigation through his service at a community law center.

Before joining Boucher, LLP, Neil worked for noted law firms in Southern California exclusively representing plaintiffs in employment class actions and PAGA actions. Neil is a member of the State Bar of California and is licensed to practice in all California state courts, as well as the United States District Courts for the Central District of California and Northern District of California.

¹ Mr. Larsen is not presently an associate attorney with Boucher LLP. His biography is included to provide the Court with information regarding his background.

BOUCHER LLP

HERMEZ MORENO

Hermez Moreno, a veteran trial lawyer who specializes in complex police misconduct litigation and catastrophic person injury and trial work, serves as Of Counsel to Boucher LLP.

During his professional career, which spans nearly four decades, Moreno has a diverse array of litigation experience and has attained verdicts and settlements for his clients up to eight figures. Some of the legal areas he has litigated include:

- Civil Rights
- Medical/Legal Malpractice
- Mass Torts
- Insurance Bad Faith
- Police Misconduct
- Excessive Use of Force
- False Arrest/Imprisonment
- Asbestos Personal Injury
- Mishandling of Human Remains
- Traumatic Brain Injury
- Asbestos Commercial Property Damage
- Asbestos Personal Injury
- Jail Abuse

Moreno also has extensive experience in transactional work and has been involved in the negotiating and drafting of contracts and other documents for entertainers in the fields of film, music recordings and film and recording financing. He has also negotiated and drafted contracts for the sale and purchase of businesses and landmark real estate in the Los Angeles area.

Moreno, who began his career handling civil rights cases throughout California, served as Special Counsel to Cesar Chavez (1984-1993) and as Trial Counsel for the United Farm Workers Union (1984-1990) in areas involving labor disputes and cases brought by growers' efforts to break the union. He also represented indigent clients in pro bono cases and continues to do so.

In addition to his legal practice, Moreno is actively serving as a professor of trial advocacy. He has served as a Clinical Professor at the UCLA School of Law in its Trial Advocacy Program and has been both a Visiting Associate Professor of Law, Clinical Instructor in the Trial Advocacy Program of Southwestern Law School and currently serves as an Adjunct Professor of Law in the school's Trial Advocacy and Civil Rights Program.

Moreno is admitted to the State Bar of California as well as the United States Supreme Court, United States Court of Appeal Ninth Circuit, United States Court of Appeal, Federal Circuit and the United States District Court for the Central, Northern, and Eastern

Districts of California. Among his professional affiliations, he is or has been a member of:

- Consumer Attorneys of California

BOUCHER LLP

- Consumer Attorneys Association of Los Angeles
- Trial Lawyers for Public Justice
- Mexican American Bar Association (Board of Trustees)
- Mexican American Bar Foundation (Board of Directors)
- Santa Monica Third Street Development Corporation (Board of Directors)

A native of Mexico, Moreno attended the University of California, Santa Barbara where he received a Bachelor of Arts degree in Political Science. He obtained his Juris Doctor degree from the UCLA School of Law. While in law school, he co-founded Centro Legal de Santa Monica, Inc., a non-profit legal aid office operated by UCLA Chicano law students. The organization, which subsequently merged with Westside Legal Services, provided legal services to underprivileged residents in Santa Monica and Moreno served as a Board of Trustees member and supervising attorney.

Moreno lives with his wife in Moorpark, CA on a 15-acre horse ranch. Among his personal interests, he is an art collector, an artist, and has written his first novel.

BOUCHER LLP

JEAN M. SEDLAK

Jean M. Sedlak, an attorney with significant experience advocating for the rights of consumers and employees harmed by corporate wrongdoing, was an Associate of Boucher LLP.² Throughout her legal career, Sedlak has represented people harmed by wage theft, employment discrimination and harassment, unfair, deceptive, and fraudulent business practices, defective products, and substandard nursing home care. She prosecutes class and representative actions in federal and state courts.

Sedlak has helped bring to resolution numerous cases throughout her legal career. She has helped to recover millions on behalf of workers who were victims of wage theft. Sedlak also helped to obtain a settlement on behalf of current and former residents of a New York nursing home that provided the largest per capita payout of any nursing home class action in New York, as well as substantial injunctive relief to make the home safe. She has also helped to recover millions on behalf of consumers who were victims of unfair, deceptive, and fraudulent business practices.

Sedlak obtained her Juris Doctor degree from UCLA School of Law. While in law school, Sedlak served as the Financial Director of El Centro Legal and volunteered in El Centro Legal's Juvenile Hall Clinic. She earned her Bachelor of Science Degree in Finance from Chapman University.

Sedlak is admitted to the State Bar of California, the State Bar of New York, and the United States District Courts for the Northern and Central Districts of California, and for the Southern and Eastern Districts of New York.

In her spare time, Sedlak has trained for years in martial arts. She has competed in multiple tournaments, including several in which she was awarded first place in sparring.

² Ms. Sedlak is not presently an associate attorney with Boucher LLP. Her biography is included to provide the Court with information regarding her background.

BOUCHER LLP

MARIA L. WEITZ

Maria L. Weitz, an attorney with broad experience in numerous areas of consumer law, is a partner of Boucher LLP.

Throughout her legal career, Weitz has focused her practice on unfair, deceptive, and fraudulent business practices, and seeking legal accountability on behalf of injured plaintiffs. As a result, her diverse range of litigation experience spans a wide array of legal issues, including complex class actions, product liability and other personal injury cases, employment litigation, and appellate practice.

Weitz received her undergraduate education at the University of California, Los Angeles, where she earned a Bachelor of Arts degree in Sociology and Communications. Her interest in civil justice developed while attending the University of California, Davis School of Law, where she earned her Juris Doctor degree. She received a Public Service Law Certificate recognizing her legal work in public interest organizations and government agencies. This work included serving as co-counsel in a federal jury trial on behalf of an inmate alleging civil rights violations, and working within the California Attorney General's Office to prosecute civil cases for violations of California's Air Pollution Control Laws. She also received a Witkin Award for Academic Excellence in Legal Writing and the Sacramento County Bar Association Diversity Fellowship.

Over ten years of practice, Weitz has secured major appellate victories and significant client compensation by leveraging the creative, strategic approach that is Boucher LLP's hallmark. Weitz's work has helped recover millions of dollars for the firm's clients, including a recent 8-figure recovery on behalf of a construction worker who was injured on the job. Her appellate work has led to two published pro-consumer cases on significant issues of first impression: *Quezada v. Herb Thyme Farms, Inc.* (2015) 62 Cal.4th 298 (unanimously vindicating the rights of consumers who paid a premium "organic" price for conventionally grown produce that was deliberately mislabeled), and *Barriga v. 99 Cents Only* (2020) 51 Cal.App.5th 299 (recognizing that employer-employee relationships carry a heightened potential for coercion, and imposing a duty on trial courts to closely scrutinize declarations filed by an employer in opposition to class certification).

In recognition of her career accomplishments, Weitz has been selected as a Southern California Rising Star by Super Lawyers Magazine 2013-2020, and included among the National Trial Lawyers' Top 40 Under 40 Civil Plaintiff Attorneys in California.

Weitz is admitted to the State Bar of California, the United States Court of Appeals for the Ninth Circuit, and the United States District Courts in the Northern, Southern, Central, and Eastern Districts of California.

BOUCHER LLP

MALLORY WHITELAW

Mallory Whitelaw, an Associate of Boucher LLP, has focused her litigation practice on the representation of clients in employment, civil rights, and business litigation in both state and federal court proceedings.

Prior to joining Boucher LLP, Whitelaw was an Associate at Los Angeles-based firm, Geragos & Geragos, APC. Whitelaw received her Juris Doctor from Loyola Law School, Los Angeles. During law school, she served as Senior Technical Editor for Loyola of Los Angeles International and Comparative Law Review (ILR). Whitelaw also served as a clerk at Public Counsel as part of Loyola's Civil Rights Litigation Practicum. Additionally, Whitelaw was awarded a Peggy Browning Fellowship to work at National Day Laborer Organizing Network, where she helped to bring a federal case challenging state laws on equal protection grounds.

Prior to law school, Whitelaw worked as an Interaction Designer for creative agencies focused on websites, games and software. Whitelaw attended San Francisco State University where she received her bachelor's degree, and New York University where she received her master's degree. Outside of work, Whitelaw enjoys ambitious baking projects, with varying degrees of success.

Whitelaw is admitted to the State Bar of California and the United States District Court, Central District of California.

Exhibit B

CURRICULUM VITAE

RAYMOND PAUL BOUCHER, ESQ.

BOUCHER LLP

21600 Oxnard Street, Suite 600

Woodland Hills, California 91367

Tel. (818) 340-5400 | Fax (818) 340-5401

ray@boucher.la | www.boucher.la

EDUCATION

Pepperdine University School of Law, Malibu, California

Distinguished Alumnus Award (2002). Juris Doctorate (1984).

Ranked in top fifteen percent of class. Moot Court (first place petitioner brief).

Phi Delta Phi honor society.

Whittier College School of Law, Costa Mesa, California

Honorary Doctor of Law (2005).

Colorado State University, Fort Collins, Colorado

Master of Science in Management (1981). Graduate assistant.

Sigma Iota Epsilon honor society.

Fort Lewis College, Durango, Colorado

Alumnus of the Year (2007). Bachelor of Arts (1979). Double Major, Business

Administration and Political Science. Student Body President. Dean's List.

ADMISSIONS

State Courts of California; United States District Courts for the Central, Northern, Southern, and Eastern Districts of California

PROFESSIONAL EXPERIENCE

Boucher LLP, Woodland Hills, California

Partner (Present)

Kiesel, Boucher & Larson LLP, Beverly Hills, California

Partner (1999 to 2013)

Law Offices of Raymond P. Boucher, Tarzana, California

Partner (1990 to present)

Nordstrom, Steele, Nicolette & Jefferson, Los Angeles, California

Attorney of Counsel (1993 to 1996)

Sayre, Moreno, Purcell & Boucher, Los Angeles, California

Managing Partner (1985 to 1990)

Gould & Sayre, Santa Monica, California

Attorney at Law (1984 to 1985)

AFFILIATIONS AND SELECTED LEGAL INVOLVEMENT

American Association for Justice, Member

American Bar Association, Admitted as a Fellow of the American Bar

Association of Trial Lawyers of America

State of California Delegate

Member

Beverly Hills Bar Association, Member

California Courts, Administrative Office of the Courts (2002 to 2007)

Committees: Court Funding, Complex Courts System, Court Integration

California State Bar Association, Member

Civil Justice Foundation, Member

Consumer Attorneys Association of Los Angeles

Formerly the Los Angeles Trial Lawyers Association

President (2005)

Board of Governors, Emeritus Member (2005 to present)

Board of Governors, Member (1996 to 2006)

Consumer Attorneys of California

Formerly the California Trial Lawyers Association

President (2007)

Board of Governors (1997 to present)

Consumer Attorneys of San Diego (2001 to present)

Consumer Advocate of the Year (2007)

Diversity in Law Foundation, Board of Directors

Los Angeles County Bar Association

Board of Trustees (2000 to 2002)

Los Angeles Superior Court Bench and Bar Committee (2001 to 2008)

Make a Wish Foundation, Ambassador

National College of Advocacy, Fellow

Orange County Bar Association, Member

Orange County Trial Lawyers Association, Member

Pepperdine School of Law

Board of Visitors (1997 to present)

Public Citizen, Member

Public Justice, Board of Directors

Formerly Trial Lawyers for Public Justice

Board of Directors (1996 to present)

Member (1984 to present)

The Roscoe Pound Foundation, Member

SELECTED AWARDS AND HONORS

Trial Lawyer of the Decade (2001-2010)

Los Angeles Daily Journal

American Association for Justice

Steven J. Sharp Public Service Award (2008)

California Lawyer Magazine

California Lawyer Attorney of the Year (CLAY) Award (2008)

Consumer Attorneys of Los Angeles

Trial Lawyer of the Year (2007)

Ted Horn Memorial Award in recognition of service to the
California State Bar (2002)

Finalist, Trial Lawyer of the Year (1996)

Several Presidential Awards for Outstanding Contribution
to the Trial Bar

Consumer Attorneys of California

Consumer Attorney of the Year (2007)

Legislative Champion Award (2002)

Several Presidential Awards of Merit

Consumer Attorneys of San Diego

David S. Casey, Jr. Consumer Advocate Award (2006)

California League of Conservation Voters

Environmental Leadership Award (2005) for dedication to the environment and
for fostering the public health rights of individuals

Fort Lewis College, Durango, Colorado

Alumnus of the Year (2007)

Lawdragon

Named one of 500 Leading Lawyers in America (2009-2011)

Los Angeles Daily Journal Law Business

Named one of the 100 Most Influential Attorneys in California several times

Los Angeles Magazine

Super Lawyer (2001 to present); named one of the Top 100 Super Lawyers in
Southern California (2010 to present)

Loyola Law School

Champion of Justice Award (2008)

Martindale-Hubbell, Peer Reviewed AV (highest rating)

Orange County Trial Lawyers Association

Top Gun Award (2008)

Pepperdine University School of Law

Distinguished Alumnus Award (2002)

Project Sister Family Services

Justice Armand Arabian Award (2006) for outstanding efforts to secure justice for victims of clergy abuse

Trial Lawyers for Public Justice

Finalist, Trial Lawyer of the Year (2000, 2008)
Trial Lawyer of the Year (1994)

Recipient of presidential awards, awards of merit, recognition, and commendations from federal, state, and local governmental entities and a variety of bar organizations.

LITIGATION

Tried more than sixty cases to verdict, recovering in excess of three billion dollars in verdicts and settlements for clients. Briefed and argued more than twenty appeals before the Ninth Circuit Court of Appeals and California Courts of Appeal.

Selected class actions and complex litigation generated:

Adderton v. Nextel Commc'n, Inc., et al. ("Boost Mobile")

Super. Ct. Los Angeles County, 2006, No. BC344300.

Owners of Pipeline asserted Nextel unlawfully used its power as majority interest holder to force Pipeline's owners to sell their shares in Boost Mobile for below market value. Nextel withheld financial and marketing support from Boost Mobile until the Pipeline owners sold their interests, and provided false valuations and withheld financial information so that Pipeline could not know Boost Mobile's true value. Resolved.

In Re Aetna UCR Litigation

Dist. N.J., Pending, MDL No. 2020, No.: 2:07-cv-3541 (FSH)(PS)

Appointed Class Counsel for class of subscribers to Aetna's healthcare insurance plan in class action alleging Aetna knowingly used inherently flawed databases licensed from Ingenix to set usual, customary, and reasonable ("UCR") rates for out-of-network services, resulting in artificially reduced reimbursements to plaintiffs. Plaintiffs allege the existence of a secret and illegal agreement by Aetna, UnitedHealth Group, Ingenix, and most of the country's largest health insurers to systemically under-reimburse consumers for out-of-network services in violation of ERISA, RICO, and the Sherman Act, as well as state law.

American Medical Association et al. v. Wellpoint, Inc.

C.D. Cal, Pending, MDL No. 09-2074 PSG (FFMx)

Appointed Co-Lead Counsel in action on behalf of physicians and physician groups to recover payment from insurers who violated federal antitrust laws by fixing artificially low reimbursement rates for treatment provided to out-of-network patients.

Balasubramaniam v. Cty of Los Angeles, et al.

Super. Ct. Los Angeles County, 2004, Case No. BC158506.

Represented plaintiff medical doctor in case of employment discrimination based upon color. Resolved after trial, on appeal.

Bartley v. Camarillo Miramonte Homeowners Ass'n

Super. Ct. Ventura County, 2002, No. SC020953.

Class action against real estate developers on behalf of individual condominium owners for faulty construction and repairs. The units were constructed over a high water table and on poor soils which expanded and contracted, causing the units to sink, and causing floor slabs, foundations, and walls to crack. The defendants knew about the defects but did not disclose them. After receiving complaints, developers failed to repair as promised. Resolved on eve of trial.

Bianchi v. Schneiderman, et al.

Super. Ct. Los Angeles County, 2003, No. EC033688.

Represented plaintiff in suit for breach of an agreement and for fraud after Schneiderman fraudulently obtained control of L.A. Digital Post and then transferred it to his wife in order to hide assets from creditors. Resolved.

Black v. Blue Cross of California

Super. Ct. Los Angeles County, 2007, No. BC250339.

A certified class action against a health insurer for improper mid-year contract modifications. Settled for an eight-figure amount after a liability trial.

Berger v. The Berger Foundation, et al.

Super. Ct. Riverside County, 2011, Case No. INC 10010664.

H. N. and Frances Berger founded a charitable organization to promote and support education and alleviate human suffering. Defendants diverted millions from this foundation to engage in self-dealing transactions and to pay themselves excessive compensation, and to fund ventures to employ their relatives.

Represented the Berger Foundation to remedy these wrongs and safeguard a family legacy. Resolved.

Bunker Hill Twrs Condo Ass'n, et al. v. W.R. Grace & Co.

Super. Ct. Los Angeles County, No. B072642.

Represented 250 resident unit owners in a 32-story, luxury downtown high-rise in an action against the nation's leading asbestos products manufacturer. The building's steel girders were coated with asbestos, which contaminated the building with hazardous amounts of emitted asbestos fibers in breathable dust. A jury awarded over \$6 million to compensate for the cost of the abatement.

California Gubernatorial Recall Election Litigation

Represented former Governor Gray Davis in a challenge to the qualification of the 2003 California gubernatorial recall election.

Castaneda, et al. v. State of California et al.

Super. Ct. Los Angeles County, 2004, No. BC299062.

The California Legislature passed a bill to allow victims of wrongful deportation or coerced emigration between 1929 and 1944 to bring civil actions. *Castaneda* was a class action on behalf of approximately 400,000 U.S. citizens and resident aliens who were wrongfully expelled from California because of their Mexican heritage. Complaint withdrawn after governor's veto of the bill.

Catalina Toys v. Forward Winsome

Super. Ct. Orange County, No. 68-59-34.

Defended Forward Winsome, one of the largest toy manufacturers in the world, and represented it on a cross complaint. Plaintiffs alleged that Forward Winsome intentionally delayed shipments of goods and breached an agreement in order to place the plaintiffs in financial duress and to foreclose upon their assets. After a fifteen-day trial, the jury entered a unanimous verdict awarding Forward Winsome more than \$6 million; settled before punitive damages phase.

Centinela Freeman Emergency Medical Associates, et al. v. Maxwell-Jolly et al.

Super. Ct. Los Angeles County, Pending, No. BC406372.

Action on behalf of emergency room doctors who received medical reimbursements in amounts that were significantly below the costs that they incurred to treat their patients. Writ of mandate issued; judgment entered.

Chavez v. Nestlé USA, Inc.

C.D. Cal., 2013, No. CV09-9192 GW (CWx).

Appointed lead counsel in class action for false advertising in the marketing of a beverage for infants. Resolved following successful appeal to Ninth Circuit.

CIGNA Litigation

Class action against medical insurers who under-reimbursed hundreds of thousands of medical patients for out-of-network care they received. The plaintiffs allege the health insurers manipulated data to artificially depress reimbursements for medical care.

The Clergy Cases

Super. Ct. California, JCCP Nos. 4286, 4297, 4359

Served as Plaintiffs' Liaison Counsel representing almost 1,000 individuals and their families in significant personal injury claims involving molestation at the hands of Catholic priests.

The Clergy Cases I, California JCCP 4286 (Diocese of Orange).

Ninety survivors of Clergy sexual abuse filed lawsuits against the Roman Catholic Diocese of Orange. In December 2004, after nearly two years of intense negotiations, lead negotiations to successfully settle all claims against the Diocese for \$100 million on the condition that the secret files of the Diocese of Orange would be made public.

The Clergy Cases I, California JCCP 4286 (Archdiocese of Los Angeles).

Five-hundred and eight survivors of clergy sexual abuse filed lawsuits against the Roman Catholic Archbishop of Los Angeles. On the eve of the first of more than a dozen scheduled trials, successfully negotiated an agreement with the Archbishop to resolve all remaining cases against it, resulting in the largest resolution with any diocese in the United States.

The Clergy Cases II, California JCCP 4297 (Archdiocese of San Diego).

One-hundred and forty-four survivors were sexually abused by Clergy members in the Roman Catholic Diocese of San Diego. In the second-largest settlement by a Roman Catholic diocese nationwide since claims of sexual abuse by clergy members came to light in 2002, the Diocese agreed to pay nearly \$200 million to these 144 survivors.

In Re Crestor Products Liability Cases

Super. Ct. Los Angeles County, Pending, California JCCP No. 4713.

Appointed Plaintiffs' Co-Lead and Co-Liaison Counsel in Judicial Council coordinated proceeding pending before the Los Angeles Superior Court involving personal injury claims arising from use of Crestor pharmaceutical drug. Settled.

DePUY ASR Artificial Hip Implants Litigation

Super. Ct., San Francisco County, Pending, California JCCP No. 4649.

Nationwide personal injury actions on behalf of patients who received the recalled, defective, surgically implanted, metal-on-metal ASR XL Acetabular and ASR Hip Resurfacing systems manufactured by DePuy Orthopedics, a unit of Johnson & Johnson. The complaints allege DePuy Orthopedics was aware its ASR hip implants were failing at a high rate, yet continued to manufacture and sell the product to unsuspecting physicians and patients. Pending.

In Re Diet Drug Litigation

Super. Ct. Los Angeles County, California JCCP 4032.

Appointed Co-Plaintiffs' Liaison Counsel. Claims arose from injuries resulting from the use of the diet drug Phen-Fen. Resolved.

Jane Doe v. Garden Grove Unified School District

Represented a child victim of sexual abuse at school. Resolved.

Elena A. et al. v. Casa de Angeles Cal. Corp., d/b/a Healthy Start, et al.

Super. Ct. Los Angeles County, Pending, No. BC457840.

Case on behalf of developmentally disabled adults who were subjected to serious physical and verbal abuse and neglect while attending an adult day care center. The abuse included sexual molestation which caused rashes, bruises, scratches, abrasions, scarring, and cuts and the contraction of venereal disease. It also included the withholding of medical care, and the failure to provide appropriate meals, leading to dehydration, malnutrition, and anemia. It included rough handling acts of humiliation, and threats to harm family members after clients witnessed inappropriate behavior. Pending.

In Re: Facebook, Inc. Internet Tracking Litig.,

N.D. Cal., Pending, MDL No. 2314, No. 5:12-md-02314-EJD.

Appointed Interim Liaison Counsel in this class action lawsuit seeking damages and injunctive relief for the knowing interception of users' Internet communications and activity after logging out of their Facebook accounts, in violation of state and federal laws including the Federal Wiretap Act, the Stored Communications Act, and the Computer Fraud and Abuse Act.

In Re Galvanized Steel Pipe Litigation

Super. Ct. Los Angeles County, 2010, No. BC174649

Appointed Lead Counsel (2001). Class action involving construction defects. Settled for an amount in the high eight figures.

Gillis et al. v. Ralph Wyatt Plastering Company, et al.

Super. Ct. Los Angeles County, 1999, No. SC034918.

Case to recover for negligent construction leading to water intrusion and an infestation of highly toxigenic mold, resulting in the total loss of the plaintiff's home and all of its contents. Eight-figure settlement.

Grossman v. Unger Fabrik, LLC

Super. Ct. Los Angeles County, 2013, No. BC480626.

Breach of contract action on behalf of an executive who made \$55 million in sales for a company that then failed to pay her commissions. Resolved.

Hablian et al. v. Zurich U.S. et al.

Cal. Comp. Bd. of Appeals

Class action to recover workers' compensation benefits that were due to injured employees, but that employers and their insurers instead kept for themselves. The California Workers Compensation Appeals Board has ruled that a class action may be brought. Case pending.

Leslie v. Hochman, Salkin & Deroy

Super. Ct. Los Angeles County, 1997, No. BC127454.

In this legal malpractice case, attorneys arranged to provide the plaintiffs with a tax shelter plan under which a commodities broker would reduce their income tax burden through trades in gold futures, and the attorneys would take \$20 for each of the broker's transactions in return for legal representation about the tax consequences of the trades. The Ninth Circuit then ruled that the types of deductions the attorneys advised the plaintiffs to take on their tax returns were not based on genuine losses, such that the plaintiffs were now responsible for unpaid taxes, interest, and penalties. Litigation ensued in which the attorneys represented the plaintiffs before the U.S. Tax Court, promising that they would prevail when all the while they had no reasonable possibility of doing so. Resolved.

Los Angeles Unified School District Sexual Molestation Cases

Represented numerous children who were molested at Miramonte Elementary School in the Los Angeles Unified School District.

Madrid v. Perot Systems Corporation et al.

Super. Ct. Sacramento County, No. 03AS04763.

Antitrust and unfair competition action to recover from Perot Systems Corporation for aiding and abetting the manipulation, distortion, and corruption of California's electricity market, including the design and sale of derivative securities, in the wake of the deregulation of California's energy sector. Resolved.

Martinez et al. v. EMI Music Distribution et al.

("Compact Disc Minimum-Advertised Price Antitrust Litigation")

C.D. Cal, No. CV-00-05730 RAP (RNBx).

Suit to recover from recorded-music distributors and retailers for price fixing. Resolved.

Murray v. Belka ("First Pension")

Super. Ct. Orange County, California JCCP No. 3131.

Suit against a pension plan administrator, one of the nation's largest law firms, and one of the world's largest accounting firms to recover damages and for restitution to hundreds of investors who had lost their life savings to a Ponzi scheme. Co-tried a four month trial with Michael Aguirre, resulting in a liability and punitive damages verdict. The Orange County, California jury in the case found that Pricewaterhouse Coopers helped defraud the investors by creating fraudulent audits and reviews that First Pension Corporation used in its filings with government agencies over nine years. The case resolved on the eve of the punitive damage phase for nearly nine figures.

In re: National Association of Music Merchants, Musical Instruments and Equipment Antitrust Litigation

S.D. Cal. MDL No. 2121.

Class action in antitrust to recover for anticompetitive price fixing.

Northridge Homeowners v. The Newhall Land and Farming Co., et al.

Super. Ct. Los Angeles County, 2010, No. BC174649.

Recovered \$41 million on behalf of 5,000 Santa Clarita Valley residents in a suit against real estate developers for the installation of defective galvanized steel pipes which rusted and leaked inside their new homes.

In Re Northridge Earthquake Litigation

Appointed Plaintiffs' Liaison Counsel (2002). Numerous coverage lawsuits against State Farm Insurance, 21st Century Insurance, Farmers Insurance, and USAA Insurance Company for fraudulent insurance practices arising out of the Northridge Earthquake. Resolved.

In re: Pellicano Cases

Super. Ct. Los Angeles County, 2014, No. BC316318.

Appointed as Co-Lead Counsel in class action against AT&T. Cases involved wiretapping in violation of the California Penal Code. Settled.

Quesada v. Herb Thyme Farms, Inc.

Super. Ct. Los Angeles, County, No. BC436557; .

Action against the largest grower and marketer of herbs in California for labeling conventionally grown food as “fresh organic” in order to mislead consumers into paying more. On December 3, 2015, the Supreme Court of California issued a landmark decision, unanimously vindicating the rights of consumers who paid a premium “organic” price for conventionally grown produce that was deliberately mislabeled as organic. *Quesada v. Herb Thyme Farms, Inc.* (2015) 62 Cal.4th 298. Pending.

Residents of Tucson, Arizona v. Tucson Airport Authority et al.,

AZ Court of Appeals, No. 2 CA-CV 93-0204.

Actions on behalf of over 1,600 residents of the Sunnyside community of Tucson against the Tucson Airport Authority and other defendants for dumping a carcinogen, trichloroethylene (TCE), into disposal pools and allowing it to seep into the city’s ground water. After an EPA-sponsored researcher found high levels of TCE and other carcinogens in drinking water, experts discovered that several unusual forms of cancer, particularly among children in the area, were at almost epidemic levels. The actions settled for \$84.5 million.

Silver et al. v. Aetna Health Inc., PA, et al.

N.D. Cal., No. C10-00143.

Class action against medical insurers who under-reimbursed hundreds of thousands of medical patients for out-of-network care they received. The plaintiffs allege the health insurers manipulated data to artificially depress reimbursements for medical care.

Silver v. Del Webb

Super. Ct. Nevada. No. A437325.

Appointed Lead Counsel (2001). Certified class construction defect suit involving installation of faulty plumbing systems in new homes. Resolved.

Sinskey, et al. v. Ernst & Young et al.

Super. Ct. Los Angeles County, No. BC247851.

Represented plaintiffs in action for fraud in the sale of securities. Resolved.

Sister Sledge et al. v. Warner Music Group Corp.

N.D. Cal., No. 12-CV-0559-RS.

Appointed Interim Co-Lead Counsel in this suit to recover for the shortchanging of artists in the licensing of their works to third parties for subsequent retail sale as digital downloads and ringtones. Settled for \$11.5 Million.

Skeen, et al. v. BMW of North America LLC, et al.

Dist. N.J., No. 2:13-cv-1531-WHW-CLW.

Appointed Co-Lead Class Counsel in nationwide class action on behalf of owners and lessees of MINI Cooper vehicles manufactured with defective “timing chain tensioner” parts that cause premature engine damage and failure. Settled.

The Temptations et al. v. UMG Recordings, Inc.

N.D. Cal., No. 12-CV-1289-JCS.

Suit to recover for shortchanging of artists in the licensing of their works to third parties for subsequent retail sale as digital downloads and ringtones. Pending.

Terry W. et al. v. Kaiser Foundation Health Plan, Inc. et al.

Super. Ct., Los Angeles County, No. BC187451.

Case against Kaiser for failing to take action to protect patients after receiving complaints that one of their doctors was molesting minors. The doctor was later arrested, convicted, and incarcerated for his crimes. Resolved.

In re Transient Occupancy Tax Cases

Super. Ct. Los Angeles County, California JCCP 4472.

Action on behalf of thirty-nine separate California cities to recover unremitted occupancy taxes from online travel companies.

In re Trasylol Drug Cases

Super. Ct. Los Angeles County, California JCCP 4593.

Action on behalf of the people of the State of California against a pharmaceutical company that continued to aggressively market a drug after becoming aware that it significantly increased the risk of renal failure, stroke, and death, and which was ultimately removed from the market. Resolved.

Welch v. Orkin Exterminating Co.

Super. Ct. Los Angeles County, No. 516323.

Orkin's negligent treatment of the plaintiffs' San Diego home for termites caused plaintiffs to develop chemical sensitivities. Orkin argued the plaintiffs were only imagining their injuries, or that the injuries preexisted. Orkin denied that it misapplied the chemicals, and denied that the chemicals could cause any injury. After an eighteen-day trial, a jury awarded plaintiffs approximately \$1 Million.

In re Wright Medical Technology, Inc., Conserve Hip Implant Products Liability Litigation, MDL No. 2329.

Appointed Co-Lead Counsel and state Liaison Counsel in this national MDL involving actions against a manufacturer of defective surgically implanted metal-on-metal hip replacement systems. Pending.

Yaz, Yasmin and Ocella Contraceptive Cases

Super. Ct., Los Angeles County, California JCCP 4608.

Appointed and served as Plaintiffs' Co-Liaison Counsel in cases on behalf of women who were prescribed Yasmin and Yaz oral contraceptives and suffered blood clots, deep vein thrombosis, strokes, or heart attacks. Case involved allegations that Bayer failed to warn.

Young v. Johnny's Hot Dog Stand et al.

Super. Ct. Los Angeles County, 1997, No. BC102837.

Ronald Young, a 57 year-old homeless man who had been a hospital orderly before going on disability, had been frequenting Johnny's Hot Dog Stand for more than twenty years. After Young approached the window of Johnny's with money in his pocket to purchase a cup of coffee, the waitress shouted insults at

him. Minutes later, the waitress walked out of the stand, approached Young, and shot him six times, leaving him permanently disfigured and almost \$70,000 in debt to the hospital. The police never recovered the gun and the district attorney declined to prosecute. At trial, the jury found the restaurant negligent and ordered Johnny's to pay nearly \$1 million in compensatory damages.

Zachary et al. v. ARCO et al.

Super. Ct. Los Angeles County, No. BC209944.

Appointed Lead Counsel. Mass tort toxic refinery fire resulting in injury to plaintiffs and their property. Resolved.

Among cases involving published decisions:

Barriga v. 99 Cents Only, __ Cal.App.5th __ (Jun. 26, 2020)

Reversal of trial court order denying class certification of certain wage and hour claims, holding in a case of first impression for California state courts that the trial court have a duty to closely scrutinize the declarations of employees obtained by the defendant employer for abuse or coercion, and the authority to strike or discount the weight to be given those declarations.

Bains v. Moores (2009) 172 Cal. App. 4th 445.

Action on behalf of investors to recover for fraud in the sale of certain securities.

Callahan v. Gibson, Dunn & Crutcher LLP (2011) 194 Cal. App. 4th 557.

Represented family members in suit against law firm that drafted a partnership agreement which damaged the family business. Resolved.

Harrell v. 20th Century Ins. Co. (9th Cir. 1991) 934 F.2d 203.

Suit to recover for fraud in the sale of a small business. Resolved.

Ileto v. Glock, Inc. (C.D. Cal. 2006) 421 F. Supp. 2d 127.

Action against weapons manufacturers Glock and China North, whose firearms were used by a member of the Aryan Nation to shoot several children and kill a postal worker.

Quesada v. Herb Thyme Farms, Inc. (2015) 62 Cal.4th 298.

On December 3, 2015, the Supreme Court of California issued a landmark decision, unanimously vindicating the rights of consumers who paid a premium “organic” price for conventionally grown produce that was deliberately mislabeled as organic.

Ramirez v. Fox Television Station (9th Cir. 1993) 998 F.2d 743.

Suit for unconstitutional employment discrimination based on national origin.

Shirk v. Vista Unified School District (2007) 42 Cal. 4th 201.

Case to recover for sexual molestation by a public school teacher.

Regents of University of California v. Superior Court (2010) 183 Cal. App. 4th 755.

Represented relatives of decedents who willed their bodies to a medical school for research and teaching purposes, only to learn the remains had been improperly disposed of in a grotesque and undignified manner after scientific uses were concluded. Donors were told that after use, their remains would be cremated and scattered in a rose garden. Human remains were commingled with other remains and incompletely incinerated, leaving hair and flesh intact. Remains were placed in a mixture of incinerated human bodies, laboratory animal carcasses, and medical waste into garbage dumpsters and then transported to a landfill where they were disposed of with common refuse.

Rippon v. Bowen (2008) 160 Cal. App. 4th 1308.

Case on behalf of California citizens who challenged the constitutionality of Proposition 140, which imposed lifetime term limits upon state legislators and other state officers.

Santillan v. Roman Catholic Bishop of Fresno (2008) 163 Cal. App. 4th 4.

Case on behalf of a victim of childhood sexual abuse.

Wallace v. City of Los Angeles (1993) 12 Cal. App. 4th 1385.

Demetria Wallace, a teenaged honors student, was shot and killed by a shotgun blast as she sat on a bench waiting for a bus five days before she was to testify against a man accused of fatally shooting a taxi driver. Following granting of non-suit at trial, the appeals court held the police had a duty to warn the victim. The case affirmed the government's responsibility to protect citizens who jeopardize their lives by stepping forward as witnesses to crimes, and prompted changes in police procedures that have saved other witnesses' lives since.

Wholesale Electricity Antitrust Cases I & II (2007) 147 Cal. App. 4th 1293.

Co-lead counsel in suit to recover from energy traders for antitrust and unfair business practices in the wake of the deregulation of California's energy sector. Resolved in conjunction with the Attorney General's office for over \$1.1 billion.

PRESENTATIONS

Guest Lecturer

Stanford Law School, Stanford, California

Pepperdine University School of Law, Malibu, California

Loyola Law School, Los Angeles, California

Colorado State University, College of Business, Fort Collins, Colorado

Continuing Legal Education

Delivered hundreds of continuing legal education presentations to organizations including the Los Angeles County Bar Association, the Consumer Attorneys of California, the Consumer Attorneys Association of Los Angeles, the Association of Southern California Defense Counsel, the American Association for Justice, the Orange County Bar Association, the California League of Cities, Pepperdine

Law School, Mealey's, the Los Angeles Daily Journal, Glasser Legal Works, and the National College of Advocacy.

Exhibit C

BOUCHER LLP

21600 Oxnard Street, Suite 600
Woodland Hills, California 91367

Telephone 818.340.5400
Facsimile 818.340.5401

May 1, 2020

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

TNH Motors, Inc.
c/o Agent for Service of Process
Abdul Ilah Salahieh
4606 Lankershim Blvd.
North Hollywood, CA 91602

Re: *Ruiz-Garcia v. TNH Motors, Inc., et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

Pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 (“PAGA” or “the Act”) (Lab. Code § 2698 *et seq.*), this letter shall serve as written notice of claims for civil penalties that will be pursued by Mr. Oscar Ruiz-Garcia as proxy for the Labor and Workforce Development Agency on behalf of all non-exempt aggrieved employees employed by TNH Motors, Inc., alternatively known as Toyota North Hollywood, Inc. (“TNH”) in California during the statutory period, against TNH.

TNH is an automobile dealership headquartered in North Hollywood, California. Mr. Ruiz-Garcia has been employed as a non-exempt Sales Specialist in California from approximately February, 2018 to the present.¹ Pursuant to California law, TNH has at all relevant times been and continues to be Mr. Ruiz-Garcia’s employer during the statutory period.

In his representative action, Mr. Ruiz-Garcia will seek civil penalties pursuant to PAGA as a result of TNH’s failure to: (1) compensate for all overtime and double overtime hours worked based on the appropriate regular rate of pay that includes all remuneration for employment paid to employees (Lab. Code § 510); (2) provide proper meal periods and/or premium pay for non-

¹ MR. Ruiz-Garcia was furloughed by TNH in or around March of 2020.

compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); and (4) furnish complete and accurate itemized wage statements (Lab. Code § 226(a)).

FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204, 510, 1194, 1197, 1198, and 2699)

Labor Code section 204 states that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.”

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Labor Code section 1197 states, in pertinent part, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful.”

Labor Code section 1198 states, in pertinent part, “The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Section 2 of the applicable Wage Order states that, “Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work.”

In relevant part, Section 4 of the applicable Wage Order states that, “Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise.

Upon information and belief, during Mr. Ruiz-Garcia's employment, TNH failed to compensate him and aggrieved employees all overtime and double overtime compensation based upon the appropriate regular rate of pay by not taking into account all remuneration paid, including non-discretionary bonuses earned by Mr. Ruiz-Garcia and aggrieved employees. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and other aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the “Meal Periods” Section of the Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, “An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission”

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes... [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived.”

Labor Code section 1198 states, in pertinent part, “The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Section 2 of the applicable Wage Order states that, “Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work.”

Section 11 of the applicable Wage Order provides that:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on-duty” meal period and counted as time worked. An “on-duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employer's regular rate of compensation for each workday that the meal period is not provided.

"The regular hourly rate of pay of an employee is determined by dividing [the employee's] total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by [the employee] in that workweek for which such compensation was paid." *Huntington Mem. Hosp. v. Sup. Ct.* (2005) 131 Cal. App. 4th 893, 905. Indeed, "the words 'regular rate' ... obviously mean the hourly rate actually paid for the normal, non-overtime week." *Bay Ridge Operating Co., Inc. v. Aaron* (1948) 334 U.S. 446, 461.

Upon information and belief, TNH failed and fail to provide Mr. Ruiz-Garcia and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. For example, Mr. Ruiz-Garcia often was not provided the opportunity to take a second meal period in instances where he worked over ten or twelve hours and was not paid a premium wage for these non-compliant meal periods.

Moreover, as a result of TNH's failure to calculate the regular rate of pay by not taking into account all remuneration paid, Mr. Garcia-Ruiz and aggrieved employees were not paid meal period premiums at the correct rate of pay in those instances in which they received meal period premiums for late first meal periods. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE REST PERIODS

(Labor Code §§ 226.7, 1197, 1198, 2699, and the "Rest Periods" Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, "The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission."

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time."

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensations for each workday that the rest period is not provided.

"The regular hourly rate of pay of an employee is determined by dividing [the employee's] total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by [the employee] in that workweek for which such compensation was paid." *Huntington Mem. Hosp.*, 131 Cal. App. 4th at 905 Indeed, "the words 'regular rate' ... obviously mean the hourly rate actually paid for the normal, non-overtime week." *Bay Ridge Operating Co., Inc.*, 334 U.S. at 461.

Upon information and belief, TNH's policies and practices failed and fail to provide Mr. Ruiz-Garcia and aggrieved employees with off-duty net rest periods of at least ten minutes for each four hour work period, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays they failed to provide them with an opportunity to take rest periods. For example, Mr. Ruiz-Garcia frequently was not provided the opportunity to take a third rest period in instances where he worked over ten hours and was not paid a premium wage for these non-compliant rest periods.

Also, it is TNH's policy and practice to pay Mr. Ruiz-Garcia and aggrieved employees .17 hours as "[REST RECOVERY]" for rest periods. However, they were not paid .17 hours for legally mandated third rest periods on shifts in which they worked over ten hours. For example, on 7/3/2019, 7/4/2019, 7/13/2019, 7/21/2019 and 7/27/2019, Mr. Ruiz-Garcia worked shifts of over ten hours and was not paid .17 hours for each instance in which he was entitled to a third rest period. Additionally, there are other instances in which it was acknowledged by TNH that Mr. Ruiz-Garcia was to be paid .17 hours for rest periods. However, the "Weekly Hours" section of his Employee Timecard Reports indicate that he was paid .16 hours instead, thereby depriving him of all minimum wages owed. For example, this practice by TNH occurred on 7/7/19, 7/11/19, 7/14/2019, 7/16/19, 7/20/19, 7/21/19, 7/25/19, 7/26/19, and 7/30/19.

Further, to the extent rest premiums were paid, they were paid based on the artificially low regular rate set by TNH, which failed to take into account all remuneration including non-discretionary bonuses. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of \$250.00 per employee per violation in an initial citation and \$1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Mr. Ruiz-Garcia and aggrieved employees were furnished with inaccurate itemized wage statements during the statutory period. For example, Ruiz-Garcia was furnished with wage statements that did not identify TNH Motors, Inc. as the employer. Additionally, as a result of alleged violations discussed above, TNH furnished wage statements that failed to correctly show, among other items: (1) gross wages earned, (2) all deductions, and (3) net wages earned. Accordingly, Mr. Ruiz-Garcia on behalf of himself and other aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount

of \$50 for any initial violation for each pay period in which an employee is underpaid, and \$100 for each subsequent violation.

As set forth above, TNH failed to provide Mr. Ruiz-Garcia and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed and failed to pay all overtime compensation owed. Accordingly, Mr. Ruiz-Garcia, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Mr. Ruiz-Garcia's employment with TNH, including Employee Timecard Reports and Pay Statements, and Mr. Ruiz-Garcia's confirmation of TNH's unlawful practices and policies. As a result of the foregoing violations, Mr. Ruiz-Garcia is entitled to file a Complaint and invoke the protections of the Act. Mr. Ruiz-Garcia has placed TNH on notice by mailing a certified copy of this notice to its corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: _____

Alexander Gamez, Esq.

cc: Sahag Majarian
Law Offices of Sahag Majarian II
18250 Ventura Blvd.
Tarzana, CA 91356

Exhibit D

BOUCHER LLP

21600 Oxnard Street, Suite 600
Woodland Hills, California 91367

Telephone 818.340.5400
Facsimile 818.340.5401

July 7, 2020

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

TNH Motors, Inc.
c/o Agent for Service of Process
Abdul Ilah Salahieh
4606 Lankershim Blvd.
North Hollywood, CA 91602

Re: *Ruiz-Garcia v. TNH Motors, Inc., et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

This letter is being sent to inform you that Mr. Oscar Ruiz-Garcia hereby amends his prior May 1, 2020 notification of intent to pursue civil penalties pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 ("PAGA" or "the Act") (Lab. Code § 2698 *et seq.*). This letter shall serve as written notice of claims for civil penalties that will be pursued by Mr. Oscar Ruiz-Garcia as proxy for the Labor and Workforce Development Agency on behalf of all non-exempt aggrieved employees employed by TNH Motors, Inc., alternatively known as Toyota North Hollywood, Inc. ("TNH") in California during the statutory period, against TNH. Mr. Ruiz-Garcia amends his prior May 1, 2020 correspondence to put TNH on notice that in addition to the PAGA penalties sought under underlying Labor Code violations previously alleged, he will also now be seeking penalties against TNH on behalf of himself and all other aggrieved employees for TNH's alleged failure to pay all wages upon separation of employment in violation of Labor Code sections 201, 202, 203, and 256.

TNH is an automobile dealership headquartered in North Hollywood, California. Mr. Ruiz-Garcia was employed as a non-exempt Sales Specialist in California from approximately February, 2018 to June 20, 2020. Pursuant to California law, TNH was at all relevant times Mr. Ruiz-Garcia's employer during the statutory period.

In his representative action, Mr. Ruiz-Garcia will seek civil penalties pursuant to PAGA as a result of TNH's failure to: (1) compensate for all overtime and double overtime hours worked based on the appropriate regular rate of pay that includes all remuneration for employment paid to employees (Lab. Code § 510); (2) provide proper meal periods and/or premium pay for non-compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1194, 1197, 1198, 1199); (4) furnish complete and accurate itemized wage statements (Lab. Code § 226(a); and (5) timely pay wages upon separation of employment (Lab. Code §§ 201, 202, 203, 256).

FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204, 510, 1194, 1197, 1198, and 2699)

Labor Code section 204 states that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Labor Code section 1197 states, in pertinent part, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

In relevant part, Section 4 of the applicable Wage Order states that, "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise."

Upon information and belief, during Mr. Ruiz-Garcia's employment, TNH failed to compensate him and aggrieved employees all overtime and double overtime compensation based upon the appropriate regular rate of pay by not taking into account all remuneration paid, including non-discretionary bonuses earned by Mr. Ruiz-Garcia and aggrieved employees. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and other aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the "Meal Periods" Section of the
Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes... [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

Section 11 of the applicable Wage Order provides that:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be

considered an “on-duty” meal period and counted as time worked. An “on-duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employer’s regular rate of compensation for each workday that the meal period is not provided.

“The regular hourly rate of pay of an employee is determined by dividing [the employee’s] total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by [the employee] in that workweek for which such compensation was paid.” *Huntington Mem. Hosp. v. Sup. Ct.* (2005) 131 Cal. App. 4th 893, 905. Indeed, “the words ‘regular rate’ ... obviously mean the hourly rate actually paid for the normal, non-overtime week.” *Bay Ridge Operating Co., Inc. v. Aaron* (1948) 334 U.S. 446, 461.

Upon information and belief, TNH failed and fail to provide Mr. Ruiz-Garcia and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. For example, Mr. Ruiz-Garcia often was not provided the opportunity to take a second meal period in instances where he worked over ten or twelve hours and was not paid a premium wage for these non-compliant meal periods.

Moreover, as a result of TNH’s failure to calculate the regular rate of pay by not taking into account all remuneration paid, Mr. Garcia-Ruiz and aggrieved employees were not paid meal period premiums at the correct rate of pay in those instances in which they received meal period premiums for late first meal periods. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE REST PERIODS

(Labor Code §§ 226.7, 1194, 1197, 1198, 2699, and the “Rest Periods” Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, “The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code section 226.7(b) states, in pertinent part, “An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.”

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, “[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.”

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensations for each workday that the rest period is not provided.

“The regular hourly rate of pay of an employee is determined by dividing [the employee’s] total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by [the employee] in that workweek for which such compensation was paid.” *Huntington Mem. Hosp.*, 131 Cal. App. 4th at 905 Indeed, “the words ‘regular rate’ ... obviously mean the hourly rate actually paid for the normal, non-overtime week.” *Bay Ridge Operating Co., Inc.*, 334 U.S. at 461.

Upon information and belief, TNH’s policies and practices failed and fail to provide Mr. Ruiz-Garcia and aggrieved employees with off-duty net rest periods of at least ten minutes for each four hour work period, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays they failed to provide them with an opportunity to take rest periods. For example, Mr. Ruiz-Garcia frequently was not provided the opportunity to take a third rest period in instances where he worked over ten hours and was not paid a premium wage for these non-compliant rest periods.

Also, it is TNH’s policy and practice to pay Mr. Ruiz-Garcia and aggrieved employees .17 hours as “[REST RECOVERY]” for rest periods. However, they were not paid .17 hours for legally mandated third rest periods on shifts in which they worked over ten hours. For example, on 7/3/2019, 7/4/2019, 7/13/2019, 7/21/2019 and 7/27/2019, Mr. Ruiz-Garcia worked shifts of over ten hours and was not paid .17 hours for each instance in which he was entitled to a third rest

period. Additionally, there are other instances in which it was acknowledged by TNH that Mr. Ruiz-Garcia was to be paid .17 hours for rest periods. However, the “Weekly Hours” section of his Employee Timecard Reports indicate that he was paid .16 hours instead, thereby depriving him of all minimum wages owed. For example, this practice by TNH occurred on 7/7/19, 7/11/19, 7/14/2019, 7/16/19, 7/20/19, 7/21/19, 7/25/19, 7/26/19, and 7/30/19.

Further, to the extent rest premiums were paid, they were paid based on the artificially low regular rate set by TNH, which failed to take into account all remuneration including non-discretionary bonuses. Accordingly, Mr. Ruiz-Garcia, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is pay; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of \$250.00 per employee per violation in an initial citation and \$1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Mr. Ruiz-Garcia and aggrieved employees were furnished with inaccurate itemized wage statements during the statutory period. For example, Ruiz-Garcia was furnished with wage statements that did not identify TNH Motors, Inc. as the employer. Additionally, as a result of alleged violations discussed above, TNH furnished wage statements that failed to correctly show, among other items: (1) gross wages earned, (2) all deductions, and (3) net wages earned. Accordingly, Mr. Ruiz-Garcia on behalf of himself and other aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

FAILURE TO TIMELY PAY WAGES UPON SEPARATION OF EMPLOYMENT
(Labor Code §§, 201, 202, 203, 256, and 2699)

Labor Code section 201 states, in pertinent part, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code section 202 states, in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203 provides that an employee’s wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Labor Code section 256, in pertinent part, provides that a civil penalty shall be imposed in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.

Defendants willfully failed and fails to provide Mr. Ruiz-Garcia and aggrieved employees all wages due and owed upon separation of employment including, but not limited to, all minimum wages, overtime wages, meal period premiums and rest period premiums. By furnishing Mr. Ruiz-Garcia and aggrieved employees with a final check that failed to include all earned and owed wages, Defendants violated Labor Code sections 201, 202 or 203, and 256.

Accordingly, Mr. Ruiz-Garcia, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid, and \$100 for each subsequent violation.

As set forth above, TNH failed to provide Mr. Ruiz-Garcia and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed and failed to pay all overtime compensation owed. Accordingly, Mr. Ruiz-Garcia, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Mr. Ruiz-Garcia's employment with TNH, including Employee Timecard Reports and Pay Statements, and Mr. Ruiz-Garcia's confirmation of TNH's unlawful practices and policies. As a result of the foregoing violations, Mr. Ruiz-Garcia is entitled to file a Complaint and invoke the protections of the Act. Mr. Ruiz-Garcia has placed TNH on notice by mailing a certified copy of this notice to its corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: _____

Alexander Gamez, Esq.

cc: Sahag Majarian
Law Offices of Sahag Majarian II
18250 Ventura Blvd.
Tarzana, CA 91356

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On April 28, 2021, I served true copies of the following document(s) described as **DECLARATION OF RAYMOND. P. BOUCHER IN SUPPORT OF STIPULATION AND [PROPOSED] ORDER CONSOLIDATING RELATED ACTIONS FOR ALL PURPOSES, APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND DISMISSING ACTIONS WITH PREJUDICE** on the interested parties in this action as follows:

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address Yue@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on April 28, 2021, at Woodland Hills, California.

Tricia Yue

SERVICE LIST
Ruiz-Garcia v. TNH Motors, Inc.
Case No. 20STCV25676

Michelle Cooper
MOLINO & BERARDINO
4751 Wilshire Blvd., Suite 207
Los Angeles, CA 90010
Tel: (323) 692-4010
Fax: (323) 692-4015
Email: mcooper@molinolawfirm.com

Attorneys for Defendant TNH Motors, Inc.

Sahag Majarian II
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356
Tel: (818) 609-0807
Fax: (818) 609-0892
Email: sahagii@aol.com
jeankoper@majarianlaw.com

Co-counsel for Plaintiff Oscar Ruiz-Garcia

Kenneth S. Gaines
Daniel F. Gaines
Alex P. Katofsky
Evan S. Gaines
LAW OFFICE OF GAINES & GAINES, APLC
27200 Agoura Road, Suite 101
Calabasas, CA 91301
Email: ken@gaineslawfirm.com
daniel@gaineslawfirm.com
alex@gaineslawfirm.com
evan@gaineslawfirm.com

Attorneys for Plaintiff Terry Hiatt

Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAfilings@dir.ca.gov