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Attorneys for Plaintiff
YURALIS PENA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

YURALIS PENA, an individual, for the real
party in interest, the State of California

Plaintiff,

v.

SOUTH COUNTY ORAL
MAXILLOFACIAL SURGERY;
EASTLAKE SURGERY CENTER; and
DOES 1 through 50,

Defendants.

Case No. 37-2020-00029759-CU-OE-CTL

Judge: Hon. Gregory W Pollack
Dept.: C-71

**DECLARATION OF TAMIM JAMI IN
SUPPORT OF PLAINTIFF'S UNOPPOSED
EX PARTE NOTICE AND EX PARTE
APPLICATION FOR APPROVAL OF
PAGA SETTLEMENT**

Judge: Hon. Gregory W Pollack
Dept.: C-71
Date: July 22, 2021
Time: 9:00 a.m.

DECLARATION OF TAMIM JAMI

I, Tamim Jami, declare and state as follows:

1. I am an attorney duly licensed to practice law before all of the courts of the State of California.

2. My co-counsel, Mr. Alex Asil Mashiri and I, represent Plaintiff Yuralis Pena ("Plaintiff") in the above referenced case which was filed against Defendants South County Oral Maxillofacial Surgery and Eastlake Surgery Center.

3. I am familiar with the facts and proceedings of this case and if called as a witness, I could and would competently testify to the following facts on my own personal knowledge.

4. This declaration is submitted in support of PLAINTIFF'S UNOPPOSED EX PARTE NOTICE AND EX PARTE APPLICATION FOR APPROVAL OF PAGA SETTLEMENT.

5. I was sworn in to practice in the State of California on December 1, 2016, and received my Juris Doctor, Cum Laude, from the University of San Diego School of Law where I received a Dean's Scholarship.

6. During law school, I externed as a clerk for Judge Dana M. Sabraw at the United States District Court for the Southern District of California and I was a law clerk and patent agent at Sheppard, Mullin, Richter & Hampton LLP in San Diego, California.

7. I am also a United States Patent Attorney licensed and registered to practice before the United States Patent and Trademark Office (Reg. No. 74,759).

8. Since becoming an attorney, I have advocated for the fair and equal treatment of numerous employees and consumers alike, and towards this end have filed and litigated a number of civil cases both in federal and state court, including class action and representative cases, on behalf of both employees and consumers in the area of consumer law, including, but not limited to, the areas of Wage and Hour, Consumer Protection, Identity Theft, Unfair Business Practices, and the Private Attorneys General Act.

9. I have personally represented thousands of clients in several class and representative actions (Private Attorneys General Act) prosecuting wage and hour claims as well as

1 consumer claims. In five of those cases, I was able to secure class certification and final approval.
2 (See *Haji v. be.group*, San Diego Superior Court Case No. 37-2017-00025918-CU-OE-CTL;
3 *Gamberg v. Five Guys Operations LLC*, San Diego Superior Court Case No. 37-2017-00040515-
4 CU-OE-CTL; *Lizarraga v. Europa Auto Imports Inc.*, San Diego Superior Court Case No. 37-2018-
5 00058131-CU-OE-CTL; *Ortiz v. Caraustar Industries, Inc.*, San Bernardino Superior Court Case
6 No. CIV-DS1910308; *Campbell v. Fortunebuilders Inc.*, San Diego Superior Court Case No. 37-
7 2019-00035583-CU-OE-CTL.

8 10. Additionally, I was appointed class counsel in federal court on a contested motion
9 for class certification. (See *Magallon v. Vital Recovery Services, LLC*. (S.D.Cal. Mar.15, 2018)
10 2018 WL 1336291, Case No. 16-CV-02971-JAH-BLM.) The United States District Court for the
11 Southern District of California in *Magallon* recently granted final approval of the class action
12 settlement.

13 11. Prior to obtaining my legal education, I received my Bachelor of Science in
14 Engineering, with distinctions, from San Diego State University.

15 12. In pursuing my Engineering degree, I took numerous courses in Microsoft Excel
16 and used Microsoft Excel in conjunction with arithmetic as a routine part of my curricula. I have
17 continued using Microsoft Excel in my legal practice to analyze wage and hour records and compile
18 data. As a result, I am proficient in using Microsoft Excel functions to organize, compile, and
19 ascertain data, statistics, and systemic patterns.

20 13. My hourly rate in employment cases, including this case, is \$425.00. My rate of
21 \$400.00 per hour was approved over a year ago *Lizarraga v. Europa Auto Imports Inc.*, San Diego
22 Superior Court Case No. 37-2018-00058131-CU-OE-CTL; *Ortiz v. Caraustar Industries, Inc.*, San
23 Bernardino Superior Court Case No. CIV-DS1910308; *Campbell v. Fortunebuilders Inc.*, San
24 Diego Superior Court Case No. 37-2019-00035583-CU-OE-CTL. The rates charged by
25 knowledgeable and experienced attorneys in the field of employment law in San Diego County,
26 generally range from approximately \$400 per hour at the low end of the scale to approximately
27 \$895 per hour at the high end of the scale for an attorney of my skill and experience. My hourly
28 rate of \$425.00 is at the low end of the prevailing hourly rates and consistent with noted sources,

1 such as the Westlaw Court Express' Legal Billing Report, Volume 17, Number 3, California
2 Region for Dec. 2015, indicating that the law firms' ordinary hourly rates for attorneys with 4 to 9
3 years' experience are anywhere between \$390 to \$825. A true and correct copy of the Report is
4 attached to Mr. Mashiri's declaration as **Exhibit 1**. My rate is also lower than the 2020-2021
5 Laffey Matrix, which indicates an hourly rate of \$465 for attorneys with 4 to 7 years' of experience.
6 A true and correct copy of the Laffey Matrix is attached to Mr. Mashiri's declaration as **Exhibit 2**.
7 Since most plaintiffs cannot pay for my services on an hourly basis, I represent virtually all of my
8 wage and hour employment clients (plaintiffs) on a contingency fee basis. Pursuant to this
9 arrangement, I am not compensated for my time unless and until I prevail at trial or successfully
10 settle my client's case. Because I am taking the risk that I will not be reimbursed for my time and
11 expenses incurred unless my client settles or wins his or her case, I generally cannot afford to
12 represent clients for less than my hourly rate.

13 14. I spent in excess of 30 hours on this case which includes, but is not limited to, client
14 intake, preparing and requesting Plaintiff's employment records, reviewing and analyzing each
15 plaintiff's payroll records and employment file, assisting Mr. Mashiri in drafting the PAGA notice
16 to the LWDA, preparing and reviewing the pleadings, meetings and conference calls with my co-
17 counsel Mr. Mashiri regarding the factual and legal issues in this case, email exchanges with
18 defense counsel, conducting legal research as to the claims in dispute, assisting in drafting (but not
19 serving) written discovery, assisting in revising and reviewing the PAGA settlement agreement,
20 assisting Mr. Mashiri in drafting Plaintiff's ex parte application for PAGA settlement approval and
21 all supporting documents, among other tasks. The time I spent on this case was necessary—separate
22 and apart—from the time Mr. Mashiri spent on this case.

23 15. I, together with Mr. Mashiri, undertook the representation of Plaintiff in this
24 litigation at great financial risk, because I believed that Plaintiff, and other aggrieved employees,
25 had been wronged and their rights under the wage and hour laws of this state had been violated.

26 16. I assisted Mr. Mashiri in drafting the statutorily required notice, that Mr. Mashiri's
27 office sent the PAGA Notice to the California Labor and Workforce Development Agency
28 ("LWDA") and Defendants. Prior to drafting the PAGA Notice, I met and conferred with Plaintiff

1 regarding her Labor Code claims and grievances.

2 17. Prior to Mr. Mashiri sending the PAGA Notice, my office requested Plaintiff's
3 employment/personnel file from Defendant. In response, Defendants produced records including,
4 among other things, wage statements and time records for Plaintiff. Mr. Mashiri and I, reviewed
5 these documents and conducted a detailed analysis of Plaintiff's wage and hour claims. My office
6 also conducted legal research on the various potential legal issues.

7 18. On August 25, 2020, Plaintiff filed her complaint under the PAGA in this matter.
8 The complaint asserts a claim for civil penalties for violation of Labor Codes sections 201, 202,
9 203, 204, 226, 226(c), 226(a)(1)-(a)(9), 226.3, 227.3, 510, 558, 1194, 1197, 2802 and 2699 et seq.

10 19. Between September 2020 and December 2020, Mr. Mashiri communicated with
11 defense counsel both via email and telephone about the claims in this case. The parties ultimately
12 decided to engage in good faith settlement discussions amongst ourselves for the sole purpose of
13 short-circuiting protracted litigation, and incurring any additional fees and costs.

14 20. Given the nature of the case, and the fact that there were only about 11 employees
15 (current and former) who were affected by the alleged violations, Defendants, through counsel,
16 engaged an expert witness CPA firm to review the payroll data. The information was then provided
17 to us.

18 21. Based on the information provided by defense counsel, Mr. Mashiri and I were able
19 to evaluate the case, prepare risk assessment and litigation cost estimates. I then provided a
20 settlement demand to defense counsel and engaged in detailed settlement discussions surrounding
21 potential liability and civil penalty exposure.

22 22. Defense counsel and Mr. Mashiri, engaged in numerous rounds of settlement
23 discussions spanning the course of three months. Ultimately the Parties agreed to settle this matter
24 for \$47,000.00.

25 23. The Parties subsequently entered into a long-form settlement agreement
26 ("Settlement Agreement") outlining the terms of the Parties' agreement.

27 24. The gross settlement amount is \$47,000.00. The proposed PAGA civil penalties are
28 \$27,781.25, of which 75% (or \$20,835.94,) will be paid to the LWDA and the remaining 25% (or

1 \$6,945.31,) will be allocated to the approximately 11 PAGA Represented Employees. (*Id.*) Of the
2 remaining balance, Plaintiff plans to allocate \$1,218.75 towards litigation costs incurred in this
3 case. Plaintiff plans to allocate the remaining amount of \$18,000.00 towards Plaintiff's attorneys'
4 fees incurred as a result of this PAGA lawsuit. In addition to the proposed monetary settlement,
5 defense counsel informed us that Defendants have already taken affirmative steps to both cure and
6 avoid any of the alleged violations.

7 25. Based on my professional experience in handling wage and hour PAGA
8 representative and class action matters, find the proposed PAGA settlement to be fair, reasonable,
9 and adequate.

10 26. I have incurred the following costs:

11 Complaint	\$444.95
12 Ex Parte Filing and Courtesy Copy costs	\$150.00
13 Investigator Fee	\$100.00
14 File Set Up Fee & Materials	\$75.00
15 CMC Filing	\$14.00
16 Certified Mail & Postage	\$19.80
17 Copy and Printing	\$60.00
18 Total Costs:	\$863.75

19 27. My office charges an initial set up fee of \$75.00 for every case we sign up.

20 28. The costs spent for copies and printing is approximately \$60.00. My office printed
21 approximately 600 pages at \$.10 per page. The pages we printed included but were not limited to:
22 Plaintiff's employment records, payroll records, settlement briefs and supporting exhibits and
23 records, settlement agreements and supporting exhibits, and ex parte application for PAGA
24 settlement approval.

25 29. The requested amount for costs is conservative as I incurred additional costs—for
26 which I am not seeking reimbursement—for things like travel expenses and telephone/facsimile
27 expenses.

28 30. In sum, my office incurred \$863.75 in costs and Mr. Mashiri's office incurred
\$355.00 in costs. The total cost incurred in this case are \$1,218.75. The costs incurred are ordinary
and necessary.

1 Except as to those matters made upon information and belief, I declare under penalty of
2 perjury under the laws of the State of California that the foregoing is true and correct.

3 Executed on June 25, 2021 at San Diego, California.

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6 TAMIM JAMI, DECLARANT
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