

**Electronically Filed
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County of Santa Clara,
on 11/22/2021 2:12 PM
Reviewed By: R. Walker
Case #20CV368771
Envelope: 7716122**

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Attorneys for Plaintiff, the Class, and Aggrieved Employees

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

JON BETTERTON, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

ACCENTURE FLEX, LLC, a Delaware limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 20CV368771

(Assigned to the Honorable Sunil R. Kulkarni,
Department 1)

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

Date: December 16, 2021
Time: 1:30 pm
Dept.: 1

Complaint Filed: July 29, 2020
Trial Date: None Set

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I, Mai Tulyathan, declare as follows:

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

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

3. The Joint Stipulation of Class Action Settlement and Release of Claims (the “Settlement Agreement”) was the product of arm’s length negotiations between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research they had carefully analyzed. Plaintiff’s Counsel engaged in extensive factual investigation before settling. The Parties also participated in a full day of mediation with a experienced and well-known mediator, Joel Grossman, Esq.

4. In connection with mediation, the Parties also conducted informal discovery and frequent exchanges of information before mediation regarding class data for the entire class, including the number of class members, the number of pay periods at issue, the hourly rates of the class members, as well as policy documents and information pertaining to Defendant's policies and practices regarding payment of sick pay wages and the issuance of wage statements. The exchange of informal discovery allowed Plaintiff's Counsel to analyze liability and damages more fully.

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

6. The Court preliminary approved this settlement on August 13, 2021, directing

1 distribution of the Notice of Class Action Settlement (“Class Notice”) and scheduling the hearing
2 for final approval of the settlement (the “Preliminary Approval Order”).

3 7. The Court directed the Parties to make slight modifications to the Class Notice in
4 the Preliminary Approval Order—specifically, (1) that class members need only provide their
5 name (without any other identifying information) when submitting opt-outs, and (2) to add text
6 in the Class Notice regarding remote appearance instructions for the final approval hearing. The
7 Parties have modified the Class Notice pursuant to the Court’s instructions, and Plaintiff’s
8 Counsel provided the revised Class Notice to Phoenix Settlement Administrators for purposes of
9 notice dissemination on August 12, 2021.

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

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

25 10. I am currently an associate at the law firm Diversity Law Group, P.C., an
26 employment law firm that has handled numerous wage and hour class and individual actions, on
27 both plaintiff and defense sides. The firm currently has cases in numerous state courts, including
28 the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San

1 Diego County Superior Court, Monterey County Superior Court, as well as the United States
2 District Courts for the Central, Northern, Southern, and Eastern Districts of California. I have
3 handled and am currently handling numerous wage and hour class action and PAGA lawsuits,
4 including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-cv-00062-LHK);
5 *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD); *Arroyo v.*
6 *Int'l Paper Company* (Case Number 5:17-cv-06211-BLF); *Baker v. California Forensic Medical*
7 *Group, Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No.
8 17CV003723); *Westmoreland v. KinderCare Education LLC* (Case Number CGC-19-573125);
9 *Arrington v. Automatic Data Process Insurance Agency, Inc.* (Case Number 30-2019-01099994-
10 CU-OE-CXC); *Garcia v. Apex Systems, LLC, et al.* (Case Number RG19014709); *Martin v.*
11 *Wells Fargo Bank* (Case Number 19-cv-01969-JAK).

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

20 12. I have also been certified and/or approved as class counsel in numerous other
21 wage/hour class actions. Most recently, I was certified and/or approved as class counsel in the
22 cases *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert*
23 *v. Samaritan, LLC, et al.* (Case Number 17CV314186), *Song v. THC – Orange County, Inc.*
24 (Case No. 8-17-cv-965-JLS (DFM)), and *Hernandez v. Wells Fargo Bank National Ass'n, et al*
25 (Case No. 16-CV-299319). Moreover, I was granted final approval as class counsel in *Lao v. H*
26 *& M Hennes & Mauritz, L.P.* (Case No. 5:16-cv-333 EJD), *Abarca v. El Estero Car Wash, Inc.*
27 *et al* (Case No. 18CV003398), *Valles v. Community Hospital of the Monterey Peninsula* (Case
28 No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644), *Hernandez v.*

1 *Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-299319); *Baker v. California Forensic*
2 *Medical Group, Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No.
3 17CV003723); *Mendez v. Falcon Trading Company* (Case No. 19CV004512); *Truong v. DS*
4 *Services of America, Inc.* (Case No. FCS054399).

5 13. To date, I have incurred approximately 114.8 hours in connection with the
6 litigation of this lawsuit. Attached hereto as **Exhibit A** is a chart summarizing the amount of
7 work I have incurred to date on this matter.

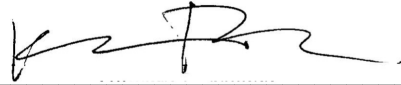
8 14. In addition to the hours above, I also anticipate spending an additional 15 hours
9 through the completion of this case to handle any post-final approval and settlement matters,
10 including communications with the Settlement Administrator and/or any potential issues related
11 to payments from the Settlement Administrator and any other related issues.

12 15. Thus, I anticipate the total amount of my fees incurred in this case to be
13 approximately \$64,900.00 based on 129.8 total hours, at an hourly rate of \$500.00 per hour. In
14 2019 and 2020, I have been approved at an hourly rate of \$450.00 per hour by various Courts in
15 a number of matters, including but not limited to, *Lao v. H & M Hennes & Mauritz, L.P.* (Case
16 No. 5:16:cv-333 EJD), *Hernandez v. Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-
17 299319), and *Abarca v. El Estero Car Wash, Inc. et al* (Case No. 18CV003398). As of January
18 1, 2021, I increased my hourly rate to \$500.00 per hour. I have been approved at the hourly rate
19 of \$500.00 in other cases in 2021, including *Baker v. California Forensic Medical Group, Inc.,*
20 *et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723);
21 *Mendez v. Falcon Trading Company* (Case No. 19CV004512); and *Truong v. DS Services of*
22 *America, Inc.* (Case No. FCS054399).

23 16. My office has incurred costs in the amount of \$8,341.03. The costs are all
24 litigation related costs, including filing and service fees, postage fees, and costs associated with
25 mediation. Attached hereto as **Exhibit B** is copy of the costs incurred in connection with
26 prosecution of this lawsuit.

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

1 Executed on this 22nd day of November, 2021, at Los Angeles, California.

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EXHIBIT A

Betterton v. Accenture Flex, LLC
Time and Task Chart for Mai Tulyathan

Hours	Description of Work
5.2	Factual investigation, review of file and client documents and paystubs, review PAGA letter upon assignment to case.
5.7	Draft complaint; further review and revise complaint
0.8	Review the Court's general order re: Covid-19 emergency order the and Court's Order Deeming Case Complex
3.9	Meet and confer with opposing counsel for case management conferences, draft, review and revise several joint statements in connection therewith
0.2	Review Defendant's motion for peremptory challenge
0.1	Review the Court's Order and Notice of Reassignment of Case
2.5	Meet and confer with opposing counsel regarding arbitrability; review arbitration agreement and conduct research thereto
0.5	Review judicial self-recusal
1.5	Prepare for and attend case management conference (December 2, 2020)
3.4	Meet and confer with opposing counsel regarding mediation; draft and prepare informal discovery request in connection with mediation
0.8	Review and revise joint stipulation to stay case pending mediation; correspondence with opposing counsel regarding stipulation
0.2	Meet and confer with opposing counsel regarding rescheduling mediation
1.7	Prepare for and attend joint pre-mediation call with mediator (Mr. Grossman)
14.5	Review and analyze production of informal discovery for mediation, including class and pay data, client's wage statements, revised wage statement, and documents re: Defendant's various policies; conduct exposure analysis for mediation
0.5	Numerous meet and confer communications with opposing counsel regarding data
12.4	Draft mediation brief; conduct legal research in connection with same; revise and revise brief
8.5	Prepare for and attend mediation
3.8	Review and revise MOU; further confer with opposing counsel regarding the terms therein
1.0	Review the Court's guidelines for preliminary approval
10.4	Review and revise long-form settlement agreement; confer with opposing counsel regarding terms therein; further review and revise same

3.8	Review and revise class notice to be sent to class members; confer with opposing counsel regarding same
0.4	Confer with settlement administrator regarding administration and admin expenses
14.4	Draft motion for preliminary approval of settlement, proposed order, and supporting documents; further revise same
1.5	Review the Court's tentative ruling granting preliminary approval of settlement; further revise class notice pursuant to the Court's instructions and meet and confer with opposing counsel regarding same
1.6	Confer with settlement administrator regarding administration timeline and dissemination of class notice; review preliminary calculations and class list
1.5	Review weekly mailing reports from settlement administrator; confer with settlement administrator regarding final approval and notice dissemination results after opt out deadline
14.0	Draft motion for final approval of settlement, proposed order, and supporting documents; further revise same; confer with co-counsel and opposing counsel regarding same
<u>114.8</u>	<u>TOTAL HOURS</u>

EXHIBIT B

11/9/2021
11:15 AM

DIVERSITY LAW GROUP
Slip Listing

Page 1

Selection Criteria

Slip Classification Open
Client (hand select) Include: Betterton, Jon v. Accenture
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
62745	EXP	Olympia	1	75.00	75.00
6/3/2020		Court fees			
WIP		Betterton, Jon v. Accenture			
LWDA					
63249	EXP	Olympia	1	6.90	6.90
6/30/2020		Postage			
WIP		Betterton, Jon v. Accenture			
Postage					
63410	EXP	Olympia	1	1483.77	1483.77
7/29/2020		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - Complaint					
63890	EXP	Olympia	1	97.29	97.29
8/5/2020		Atty Service			
WIP		Betterton, Jon v. Accenture			
Attorney Service - Complaint Service					
63673	EXP	Olympia	1	5.72	5.72
8/14/2020		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - POS of Summons					
65084	EXP	Olympia	1	5.72	5.72
11/25/2020		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - Joint CMS					
65086	EXP	Mai Tulyathan	1	94.00	94.00
12/2/2020		Court fees			
WIP		Betterton, Jon v. Accenture			
Courtcall					
66904	EXP	Olympia	1	5950.00	5950.00
4/12/2021		Arbitrators			
WIP		Betterton, Jon v. Accenture			
JAMS Mediation					

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DIVERSITY LAW GROUP
Slip Listing

Page 2

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
67656	EXP	Larry W. Lee	1	3.75	3.75
4/14/2021		Meals			
WIP		Betterton, Jon v. Accenture			
Meal					
66981	EXP	Erika Mejia	1	5.72	5.72
4/23/2021		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - Joint Status Report					
67655	EXP	Larry W. Lee	1	19.32	19.32
4/27/2021		Meals			
WIP		Betterton, Jon v. Accenture			
Meal					
67123	EXP	Erika Mejia	1	26.32	26.32
5/5/2021		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - Joint Stip					
68174	EXP	Erika Mejia	1	67.52	67.52
7/21/2021		Court fees			
WIP		Betterton, Jon v. Accenture			
Odyssey - MPA					
69702	EXP	Olympia	1	500.00	500.00
11/9/2021		Court fees			
WIP		Betterton, Jon v. Accenture			
Motion for Final Approval Fees, Service					
Grand Total					
			Billable	0.00	8341.03
			Unbillable	0.00	0.00
			Total	0.00	8341.03