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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

EVELYN MARTINEZ and SANDY ACOSTA, as
individuals and on behalf of all others similarly
situated, and as private attorneys general,

Plaintiffs,

vs.

CITY OF HOPE NATIONAL MEDICAL
CENTER, a California corporation; CITY OF
HOPE, a California corporation; CITY OF HOPE
MEDICAL FOUNDATION, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. CIVDS2015729

[Hon. David Cohn, Department S26]

**DECLARATION OF SIMON L. YANG IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

*[Filed concurrently with Notice of Motion and
Motion for Preliminary Approval; Declaration
of Larry W. Lee; Declaration of Edwin
Aiawazian; Declaration of Evelyn Martinez;
Declaration of Sandy Acosta; [Proposed]
Order]*

Date: June 21, 2022
Time: 10:00 a.m.
Department: S26

Complaint Filed: August 4, 2020
FAC Filed: September 28, 2021
SAC Filed: April 7, 2022

1 I, Simon L. Yang, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and, with the law firm
3 Diversity Law Group, P.C., am one of the attorneys of record for Plaintiff, Evelyn Martinez. I make this
4 declaration on the basis of my own personal knowledge, except as to those matters stated on information
5 and belief and, as to those matters, I believe them to be true. If called as a witness, I could testify
6 competently as to the facts stated in this declaration.

7 2. On July 14, 2020 and July 26, 2021, Plaintiff, Evelyn Martinez, submitted letters to the Labor
8 & Workforce Development Agency (“LWDA”) and Defendant, City of Hope National Medical Center,
9 regarding her intent to seek civil penalties for violations of the California Labor Code on behalf of all similarly
10 situated aggrieved employees within California.

11 3. On August 4, 2020, Plaintiff Martinez initiated this class and representative PAGA
12 action. In compliance with Labor Code section 2699(l)(1) and (4), on or about August 4, 2020, my
13 office submitted a copy of the complaint in this matter to the LWDA via online submission from the
14 LWDA’s website. On behalf of non-security guard, non-exempt employees, the initial complaint alleged
15 class and PAGA claims based on failures to furnish lawful wage statements. The *Martinez* parties
16 proceeded with discovery, and Plaintiff Martinez conferred with Defendant about additional classwide
17 Labor Code violations.

18 4. On July 27, 2021, the *Martinez* parties attended mediation with Jeffrey A. Ross. The
19 mediation did not result in a resolution. On September 28, 2021, Plaintiff Martinez filed an amended
20 complaint. The *Martinez* parties continued engaging in formal discovery, which included both written
21 discovery and the deposition of Defendant’s corporate designee.

22 5. In November of 2021, Plaintiff Martinez, Plaintiff Sandy Acosta, and Defendants agreed
23 to schedule a second mediation. In addition to providing relevant policies and other documents,
24 Defendants also produced a sampling of approximately 25% of non-exempt employee data in advance of
25 the mediation. The discovery and information obtained from Defendants and through other sources
26 allowed me to evaluate the potential value and merit of the claims and defenses. On December 23, 2021,
27 the Parties attended mediation with Paul Grossman, Esq., a mediator with extensive knowledge and
28

1 experience with wage-and-hour class and representative action litigation. Following extensive settlement
2 negotiations, the Parties were ultimately able to agree to settlement terms described in the Agreement.

3 6. Based on data available at mediation, it was estimated that there were at least 6,500
4 Settlement Class Members and PAGA Aggrieved Employees. Pursuant to the settlement's terms, it is
5 estimated that no less than approximately \$3,022,500.00 would be distributed to Participating Settlement
6 Class Members (in addition to the \$100,000 in Individual PAGA Payment allocations), based on
7 requests for up to \$1,925,000 in attorneys' fees, \$85,000 in litigation costs, \$37,500 in administration
8 costs, \$400,000 in PAGA penalties (with \$300,000 to the LWDA), and \$15,000 in service awards for
9 Plaintiffs. The amount paid on average to each Settlement Class Member will depend on his or her
10 number of relevant Pay Periods and the ultimate number of Pay Periods for all Settlement Class
11 Members and also on how many Settlement Class Members opt out of the class action settlement.

12 7. Based on my review of documents and information obtained through formal and informal
13 discovery and exchange of information, Settlement Class Members were subject to the same or similar
14 employment practices, policies, and procedures. Plaintiffs' claims arise from Defendants' alleged
15 uniform policy and systematic scheme, with respect to Plaintiffs and the Settlement Class Members, of,
16 inter alia, failing to properly pay wages for all hours worked, failing to provide a day of rest, failing to
17 provide compliant meal period and rest periods and associated premium pay, failing to timely pay wages
18 and associated waiting time penalties, failing to provide compliant wage statements, failing to keep
19 requisite payroll records and produce personnel records, and failing to reimburse business expenses.
20 Plaintiffs contend that substantially the same employment, operations, payroll, and recordkeeping
21 practices applied with respect to Plaintiffs and Settlement Class Members during the time period at
22 issue. As a result, Plaintiffs claim that they and Settlement Class Members were not paid all
23 compensation due to them from Defendants during the time period at issue.

24 8. From the outset of the litigation, Defendants denied all of Plaintiffs' allegations in their
25 entirety and any liability of wrongdoing of any kind. Defendants also denied that this case would be
26 appropriate for class certification other than for purposes of settlement. The Parties thoroughly
27 investigated the facts relating to the claims alleged in the Complaint and engaged in a thorough study of
28 the legal principles applicable those claims as well as the defenses Defendant asserted. Plaintiffs served

1 formal discovery, and Defendant provided additional information related to defenses that Defendant
2 alleged would apply to Plaintiffs' claims. Throughout the litigation, Plaintiffs continued to provide
3 information and documents.

4 9. Although I am confident that litigation of the claims would result in a classwide judgment
5 against Defendant, I recognize the inherent risks in litigation, including the specific risks that class
6 certification could be denied, liability could not be established at trial, or the applicable law could
7 change. I believe the settlement for each Settlement Class Member is fair, reasonable, and adequate,
8 given the inherent risks of litigation, as well as the potential for appeals and the costs of pursuing
9 litigation. The settlement is the result of extensive arms' length negotiations between the Parties and
10 their counsel.

11 10. I am one of the primary attorneys on this matter. My qualifications are as follows: After
12 completing my undergraduate education at The Wharton School at the University of Pennsylvania in
13 2004 with concentrations in Management and Human Resources, I continued studying labor and
14 employment issues by enrolling in post-graduate education at the School of Labor and Employment
15 Relations at the University of Illinois. I determined before enrolling in law school that I wanted to
16 practice labor and employment law in California. I thus received my J.D. from UCLA School of Law in
17 2008. During law school, I spent the summer of 2006 with the National Labor Relations Board, Region
18 21, and the summer of 2007 with the law firm of Seyfarth Shaw LLP in 2007.

19 11. Upon graduating from law school in 2008, I practiced labor and employment law at
20 Seyfarth Shaw LLP, a well-regarded labor and employment firm. I was elevated to partner in 2019. My
21 practice focused on wage and hour class, collective, and representative actions, with a particular
22 emphasis on matters involving the Labor Code Private Attorneys General Act of 2004 ("PAGA").
23 During my time with Seyfarth Shaw LLP, I was a primary attorney on numerous wage and hour class,
24 collective, and representative actions that resulted in published opinions, including for example, *Ehret v.*
25 *WinCo Foods, LLC*, 26 Cal. App. 6th 1 (2018) (affirming summary judgment in PAGA action based on
26 absence of meal period violations in light of collectively bargained waiver of meal periods on shifts of
27 not more than six hours), and *Ruelas v. Costco Wholesale Corp.*, 67 F. Supp. 3d 1137 (C.D. Cal. Sept. 8,
28 2014) (obtaining dismissal of wage statement allegations in PAGA representative action). I was also

1 able to obtain experience litigating representative claims or wage and hour matters through trial and
2 appeal. *E.g., Velazquez v. Costco Wholesale Corp.*, 603 Fed. App'x 584 (9th Cir. Mar. 25, 2015)
3 (reversing award of waiting-time penalties based on lack of evidence supporting any willful failure to
4 pay wages); *Ward v. Costco Wholesale Corp.*, 552 Fed. App'x 631 (9th Cir. Jan. 9, 2014) (affirming
5 bench-trial judgment in favor of defendant against named plaintiff and 18 opt-in plaintiffs in collective
6 action with involving deductions from final paychecks). I also litigated class certification on numerous
7 matters. *E.g., Martinez v. Guess?, Inc.*, Los Angeles Superior Court Case No. BC 498326 (obtaining
8 denial of class certification on behalf of retail employees alleging bag check claims).

9 12. Based on my experience in wage and hour class, collective, and representative actions, I
10 have been interviewed and quoted in articles published in the Northern California Record about
11 legislative efforts to reform PAGA. I also have published articles on myriad topics relevant to wage and
12 hour class and representative action litigation, including for example articles on California kin care
13 requirements in *Employee Relations Law Journal* (Vol. 36, No. 2), the extraterritorial application of
14 California employment laws in *The Recorder* (134RD Year No. 28), and California meal and rest break
15 laws in *California Transportation News*, a publication of the California Construction Trucking
16 Association.

17 13. In 2020 I left Seyfarth Shaw LLP and joined my current firm, Diversity Law Group, P.C.,
18 which also focuses on employment law. I have handled a number of wage and hour class and
19 representative actions and continue litigating such matters in numerous Superior Courts and District
20 Courts. From matters with both Seyfarth Shaw LLP and Diversity Law Group, P.C., I have successfully
21 mediated the resolution of dozens of wage and hour class, collective, and representative actions. I have
22 obtained class certification, and no court has ever found me to be inadequate class counsel.

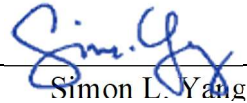
23 14. My co-counsel and I will adequately represent the Class Members in this action.
24 Plaintiffs' Counsel have and will zealously represent Plaintiffs and the Class and pursue this lawsuit to
25 its conclusion. I have no conflicts with the Class.

26 15. The LWDA assigned this matter the case number LWDA-CM-796998-20. On or about
27 April 7, 2022, my office submitted a copy of the operative complaint in this matter to the LWDA via
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1 online submission from the LWDA's website. The submissions are listed on the LWDA's website,
2 which provides a record of online submissions in this matter.

3 16. Along with the filing of the motion for preliminary approval of the settlement in this
4 matter, my regular practice would be to direct my office staff to similarly upload a copy of the Court's
5 motion papers to the LWDA in compliance with Labor Code section 2699(1)(2) and (4). Similarly, upon
6 approval of a settlement in this matter, my regular practice would be to direct my office staff to similarly
7 upload a copy of the Court's judgment, papers, or other orders awarding civil penalties pursuant to the
8 Labor Code Private Attorneys General Act of 2004. I am informed and believe that Plaintiff Acosta's
9 counsel's regular practice is the same. I also am informed and believe that the LWDA assigned Plaintiff
10 Acosta the case number LWDA-CM-818750-21.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct. Executed this 7th day of April 2022, at Pasadena, California.

13
14 
Simon L. Yang