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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
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

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

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

17 8. Upon graduating from law school in 2008, I practiced labor and employment law at
18 Seyfarth Shaw LLP, a well-regarded labor and employment firm. I was elevated to partner in 2019. My
19 practice focused on wage and hour class, collective, and representative actions, with a particular
20 emphasis on matters involving the Labor Code Private Attorneys General Act of 2004 ("PAGA").
21 During my time with Seyfarth Shaw LLP, I was a primary attorney on numerous wage and hour class,
22 collective, and representative actions that resulted in published opinions, including for example, *Ehret v.*
23 *WinCo Foods, LLC*, 26 Cal. App. 6th 1 (2018) (affirming summary judgment in PAGA action based on
24 absence of meal period violations in light of collectively bargained waiver of meal periods on shifts of
25 not more than six hours), and *Ruelas v. Costco Wholesale Corp.*, 67 F. Supp. 3d 1137 (C.D. Cal. Sept. 8,
26 2014) (obtaining dismissal of wage statement allegations in PAGA representative action). I was also
27 able to obtain experience litigating representative claims or wage and hour matters through trial and
28 appeal. *E.g., Velazquez v. Costco Wholesale Corp.*, 603 Fed. App'x 584 (9th Cir. Mar. 25, 2015)

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

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

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

21 11. My current billing rate is \$725.00 per hour, which is less than my billing rate would have
22 been had I remained at my prior firm. In January of 2019, clients were billed and paid my rate of \$630
23 per hour. In January of 2020, clients were billed and paid my rate of \$670 per hour. Had I remained at
24 my prior firm, I am informed and believe that my billing rate would have increased in January of 2021
25 to approximately \$710 per hour and in January of 2022 to approximately \$750 per hour.

26 12. I have incurred a total of 250.4 hours to date in litigating this matter. Attached as **Exhibit**
27 **A** is a summary of my hours and tasks on this matter. I also anticipate spending at least 5.0 additional
28

1 hours on this matter in connection with the final approval hearing and post-approval matters. The total
2 lodestar for my hours will be approximately \$185,165.00 based on an hourly rate of \$725.00 per hour.

3 13. Pursuant to the Agreement, any remaining monies from uncashed settlement checks will
4 be distributed to a *cy pres* recipient, California Rural Legal Assistance, in accordance with Code of Civil
5 Procedure section 384. I do not have any relationship with or connection to said organization.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct. Executed this 8th day of November 2022, at Pasadena, California.

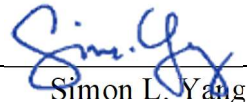
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Simon L. Yang

EXHIBIT A

Time and Task Summary
for Martinez et al. v. City of Hope National Medical Center et al
Simon L. Yang

Description of Work	Hours
Review plaintiff's wage statements and other documents	0.8
Draft and revise complaint	1.8
Review answer to complaint	0.5
Draft case management statements and review defendant's case management statements; draft joint status reports	2.4
Review court's notice of assignment, case management orders, procedures, and orders	0.6
Research on recent decisions addressing PAGA remedies for 226(a) violations	3.8
Prepare and respond to various correspondence with plaintiff, defendant, co-counsel, and administrator	6.6
Review settlement documents from prior class action against defendant	2.3
Draft and revise discovery requests	5.5
Draft PMK deposition outline	9.8
Review defendant's production of documents and information for mediation [J. Ross]	8.6
Analyze, prepare, and revise exposure model for mediation [J. Ross]	6.7
Draft and revise mediation brief [J. Ross]	14.4
Prepare for and attend mediation [J. Ross]	10.0
Draft and revise first amended complaint	0.8
Review defendant's responses to discovery	3.8
Research on recent decisions regarding additional hour of pay for meal and rest break violations	3.3
Draft meet and confer correspondences regarding discovery responses and additional	5.2
Meet and confer regarding Acosta matter and additional claims	3.9
Review PMK deposition transcript	4.4
Prepare strategy for evidence to support class certification	14.2
Prepare class certification motion papers	16.8
Review defendant's production of documents and information for mediation [P. Grossman]	12.8
Analyze, prepare, and revise exposure model for mediation [P. Grossman]	7.2
Draft and revise mediation brief [P. Grossman]	8.8
Prepare for and attend mediation [P. Grossman]	10.0
Draft and revise second amended complaint	1.8
Review and revise settlement documents, including memorandum of understanding, joint stipulation of class action settlement, class notice	12.5
Draft and revise preliminary approval documents, including motion, declarations, and proposed order	12.2
Review motions to intervene	1.2
Review ex parte application	0.5
Draft oppositions to proposed intervener ex partes	6.1
Draft and revise oppositions to motions to intervene [Payan]	14.5
Draft and revise oppositions to motions to intervene [Bonilla]	8.8
Prepare and respond to various correspondence with defendant, co-counsel, and	5.8
Calls with defendant, co-counsel, and administrator	9.2

Time and Task Summary
for Martinez et al. v. City of Hope National Medical Center et al
Simon L. Yang

Description of Work	Hours
Draft and revise final approval documents, including motion, declarations, and proposed order	12.8
TOTAL	250.4