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8 ATTORNEYS FOR PLAINTIFF DANA LIPKEN

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF SAN JOAQUIN COUNTY**  
11 **(UNLIMITED JURISDICTION)**

12 DANA LIPKEN,

13 PLAINTIFF,

14 V.

15 REYNOLDS PACKING CO., A  
16 CALIFORNIA CORPORATION, AND DOES 1  
17 THROUGH 10,

18 DEFENDANTS.

) CASE No. STK-CV-UWT-2020-0005673

)  
) **DECLARATION OF KEVIN**  
) **WOODALL IN SUPPORT OF**  
) **UNOPPOSED MOTION FOR**  
) **APPROVAL OF PAGA**  
) **SETTLEMENT**

) DATE:

) TIME:

) DEPT: 10C

) JUDGE: Hon. Jayne C. Lee  
)  
)

1 I, Kevin Woodall, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of California and before this  
3 Court. I am counsel to Plaintiff Dana Lipken (“Lipken”) in the above-captioned matter.  
4 Except as otherwise indicated, I have personal knowledge of the facts set forth in this  
5 declaration.

6 **Claims and Procedural History**

7 2. In early July, 2020, Lipken exhausted his Private Attorneys General Act  
8 (“PAGA”) administrative notice requirements by filing a letter with the Labor Workforce  
9 Development Agency (“LWDA”). Attached hereto as Exhibit A is a true and correct  
10 copy of the PAGA notice.

11 3. In July, 2020, Lipken filed a complaint in this Court, in which he alleges various  
12 individual claims against Reynolds, including wrongful termination, failure to pay  
13 vacation wages, inaccurate wage statements and failure to timely pay final wages. In  
14 September, 2020, after the PAGA exhaustion period expired, Lipken filed a First  
15 Amended Complaint that added the PAGA claim that Reynolds issued noncompliant  
16 wage statements to Lipken and other employees from July, 2019 to present. Specifically,  
17 Lipken contends in the First Amended Complaint that Reynolds violated the PAGA by  
18 including the full social security number on employees’ wage statements, in violation of  
19 Labor Code § 226.

20 **Discovery Conducted**

21 4. Lipken propounded informal discovery requests prior to mediation including, but  
22 not limited to, information relating to the number of employees who receive wage  
23 statements containing the full social security numbers and in how many wage statements  
24 this occurred from July, 2019 to present.

25 **Litigation Risks and Potential Penalties**

26 5. During informal discovery, Reynolds revealed that approximately 100 employees  
27 received wage statements containing their full social security numbers and that  
28 approximately 1,650 wage statements contained such information from July, 2019 until

1 mid-July 2020. Reynolds also produced all of Lipken's wage statements, which show  
2 his full social security number was sporadically included on wage statements. Reynolds  
3 also revealed that the inclusion of the full social security number was inadvertent.  
4 Reynolds argued the Court has discretion under the PAGA not to award any civil  
5 penalties or to substantially reduce them. Thus, although the potential PAGA penalties  
6 were \$165,000 (\$100 x 1,650 wage statements), there were risks the PAGA penalties  
7 awarded after lengthy and costly litigation would have been substantially less or none at  
8 all.

9 **Primary Settlement Terms**

10 6. In January, 2021, the parties reached a settlement during a full day mediation with  
11 Jeff Wunderli. The parties settled the PAGA claim for \$45,000., in addition to Reynolds'  
12 agreement to pay towards the costs of the settlement administrator and Lipken's  
13 mediation costs. Of the \$45,000 settlement amount, the parties agreed that, subject to  
14 Court approval, attorney's fees of \$15,000 would be paid to Lipken's counsel, along with  
15 litigation costs and the remainder of the amount would be distributed to the State of  
16 California and PAGA Affected Employees (75 percent to the State of California and 25  
17 percent to the PAGA Affected Employees). The parties also agreed that in addition to the  
18 \$45,000 PAGA settlement amount, Reynolds would pay up to \$2,500 to the settlement  
19 administrator, Phoenix Class Action Administration Solutions ("Phoenix"), along with  
20 the costs of mediation beyond the initial \$500 paid by each party. Phoenix has limited its  
21 fee to this \$2,500 amount. The parties further agreed that if any PAGA Affected  
22 Employees failed to cash their checks after 180 days, the checks would be voided and the  
23 unclaimed amount would revert to cy pres recipients in accordance with Civil Code §  
24 384. During the mediation, the parties also settled Lipken's individual claims. In  
25 addition and as part of the settlement, the Parties also agreed that within 15 days of  
26 payment by Reynolds of the \$45,000 PAGA settlement amount to the settlement  
27 administrator, Phoenix, and payment of the settlement amount by Reynolds to settle  
28 Plaintiff's individual claims, Plaintiff will file a request that the Court grant a judgment

1 of dismissal with prejudice of the PAGA claims and all other claims set forth in the First  
2 Amended Complaint. Attached hereto as Exhibit B is a true and correct copy of the  
3 settlement agreement, which has Plaintiff's individual settlement amount redacted  
4 pursuant to the confidentiality provision.

5 **The Settlement is Fair, Reasonable and Adequate**

6 7. I have been practicing law for twenty-five years. After graduating from the  
7 University of San Francisco School of Law (Magna Cum Laude) in 1995 and my  
8 admission to the bar that same year, I first practiced as a Lieutenant in the Navy Judge  
9 Advocate General's Corps until 1999. During that time, from approximately 1997 until  
10 1999, I was a Special Assistant United States Attorney. In 1999, I left government  
11 practice and worked for a small firm in San Francisco (Steyer, Lowenthal, Boodrookas  
12 and Walker) before joining the international firm of Foley & Lardner LLP in early 2000.  
13 For the next 10 ½ years, I was an Associate, Senior Counsel and Partner in Foley &  
14 Lardner LLP's Labor and Employment Department (approximately 7 years as Senior  
15 Counsel and Partner). In August, 2010, I started my own firm, which specializes in  
16 employment litigation, including class actions and complex cases.

17 8. During my career, I have tried approximately 50 cases to either a jury, a judge or  
18 an administrative board in the Navy and in federal and California courts, and another 15-  
19 20 cases to an arbitrator. In the last 22 years, I have specialized in labor and employment  
20 litigation. I have represented plaintiffs and defendants in numerous class action and  
21 complex litigation cases, including well-known clients in wage and hour and other class  
22 actions, such as Kmart Corporation, 24 Hour Fitness, Global Tel-Link Corporation and  
23 Color Spot Nurseries. I have defeated class certification, certified class actions and  
24 settled numerous class and PAGA cases. When representing plaintiffs in wage and hour  
25 class actions and PAGA actions at my own firm, I have been appointed class counsel and  
26 recovered millions of dollars for my clients. In the past, I was voted by my peers as one  
27 of The Best Lawyers in the Bay Area with respect to employment litigation.

28 9. In my opinion, I believe the settlement is good result for the State of California

1 and the PAGA Affected Employees. While I believe Lipken can prevail, there is a risk  
2 that maximum PAGA penalties will not be awarded.

3 **Attorney's Rate and Time Spent Prosecuting the Action**

4 10. During the past ten years of my practice, the vast majority of my time has  
5 been spent representing plaintiffs in employment cases, unlike earlier in my career when I  
6 defended employers and corporations. As a plaintiff's attorney, I commonly represent  
7 my clients on a contingency basis, which is an extremely risky proposition. In multiple  
8 cases, I have worked thousands of hours and advanced tens of thousands of dollars and  
9 costs, but was never paid for my time or reimbursed expenses because the employer filed  
10 bankruptcy petitions or never paid the judgments and settlements obtained.

11 11. During this case, I have received requests for assistance from clients and  
12 prospective clients, but I was not able to represent them because of the expected time  
13 commitment involved in this case.

14 12. In this case, I represented Plaintiff Lipken, the State of California and  
15 PAGA Affected Employees on a contingency basis. My current hourly rate is \$845. I  
16 charge other clients similar amounts for class action and PAGA work. Attorneys with  
17 similar experience charge more than me, as reflected in the 2019-2020 Updated Laffey  
18 Matrix. Attached hereto as Exhibit C is a true and correct copy of the 2019-2020  
19 Updated Laffey Matrix.

20 13. Last year, the Superior Court of California, County of San Francisco,  
21 determined my reasonable hourly rate for work performed in 2019 and 2020 was \$845.  
22 In 2019, the Superior Court of California, San Francisco County determined my \$795  
23 hourly rate was reasonable for class action work performed from 2018-2019. In 2018,  
24 the Superior Court of California, Alameda County determined my hourly rate of \$750 for  
25 work performed from 2015 to 2018 was reasonable for class action and PAGA work.

26 14. During this case, I performed a number of tasks to advance the litigation  
27 and resolve this matter including, but not limited to, the following: (1) preparing the  
28 complaint and First Amended Complaint; (2) preparing the PAGA notice; (3) preparing

informal discovery requests; (4) reviewing and analyzing documents, information and other discovery provided by Reynolds; (5) engaging in lengthy settlement negotiations with opposing counsel and engaging in a full day of mediation; (6) assisting in the preparation of the settlement agreement; (7) preparing the notice to be distributed to PAGA Affected Employees; (8) obtaining a quote from proposed settlement administrators; (9) conducting extensive research addressing various issues, including the defenses raised by Reynolds; (10) having multiple discussions with Lipken; (11) preparing a Case Management Conference statement and attending a Case Management Conference; (12) preparing this motion and supporting declarations.

15. Attached hereto as Exhibit D are true and correct contemporaneous time entry records that set forth the work performed and hours expended by me on this case. As set forth in my time entry records, I have spent 47.9 hours on this case to date. In the coming months, I plan to continue working with the Settlement Administrator to address any issues, address any questions of the PAGA Affected Employees and attend the hearing relating to this motion. I expect to spend another 10-15 hours on these issues after this motion is filed. Thus, I expect to spend a total of 62.9 hours on this case.

**Attorney's Costs**

16. My firm has forwarded costs prosecuting this action to a successful resolution. Below are the costs incurred and to be incurred:

Filing Fees/One Legal/process service: \$690 (including filing fee to be paid)

Research-Westlaw: \$450

Postage: \$7.10

Mediation fees: \$500

Est. Future One Legal/Process Service Fees and Filing Fees: \$200

**Total: \$1,847.10**

**PAGA Notice of Settlement**

17. Notice of the PAGA settlement was communicated to the Labor Workforce Development Agency, including the motion papers filed in support of this motion.

1 Attached hereto as Exhibit E is a true and correct copy of this notice.

2 **Letter to Recipients of PAGA Payments**

3 18. The parties prepared a letter to recipients of PAGA Payments. Attached  
4 hereto as Exhibit F is a true and correct copy of this letter.

5 I declare under penalty of perjury of the laws of California and the United States  
6 that this statement is true and correct to the best of my knowledge. Executed this 10th  
7 day of February, 2021, at Corte Madera, California.

8 

9  
10 KEVIN WOODALL