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14 Attorneys for Plaintiff, the Class, and Aggrieved Employees

15 **SUPERIOR COURT OF CALIFORNIA**

16 **COUNTY OF MONTEREY**

17 REBECCA PINEDA, as an individual and
18 on behalf of all others similarly situated,

19 Plaintiffs,

20 vs.

21 IPPOLITO INTERNATIONAL L.P.; and
22 DOES 1 through 50, inclusive,

23 Defendants.

Case No. 20CV001851

**DECLARATION OF B. JAMES
FITZPATRICK OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: February 22, 2022
Time: 9:00 a.m.
Dept.: 15

Complaint Filed: July 10, 2020

1 I, B. James Fitzpatrick, do hereby declare as follows:

2 1. I am an attorney duly licensed to practice in the state of California and am a
3 partner in the law firm of Fitzpatrick & Swanston, counsel of record for Plaintiff Rebcca
4 Pineda ("Plaintiff") in the above-captioned matter.

5 2. I have worked on this case from its inception through the present. I am familiar
6 with most aspects of this case and tasks undertaken by the various members of this firm in
7 litigating this case.

8 3. Class Counsels' application for an award of attorneys' fees in the amount of
9 \$41,666.66 and reimbursement of litigation costs in the amount of \$15,000.00 is reasonable
10 and fair. These amounts are well within what is reasonable and customary in both wage and
11 hour settlements and class action settlements in general and is based on the skill displayed by
12 Class Counsel, the effort and resources invested in this case by Class Counsel, the factual and
13 legal complexities of this case, the importance of the interests which are the subject of this
14 litigation, the risks undertaken by Class Counsel, and the degree of success achieved by Class
15 Counsel.

16 4. I am primarily responsible for work performed by this firm in this litigation. I
17 have been assisted by Diversity Law Group and attorney Laura L. Franklin from my office.

18 5. As a result of our firm's diligence and tenacity in pursuing the factual and legal
19 issues presented by this case, we were able to achieve a significant settlement that benefits
20 Class Members.

21 6. We were required to spend numerous attorney hours litigating this case. I spent
22 significant time engaging in settlement negotiations, attending the mediation and all settlement
23 conferences. All work performed by our office was done on a contingency basis. Our firm has
24 received no compensation for our time invested or expenses incurred in litigating this case. We
25 have prosecuted this litigation up to this point, taking the risk that we may ultimately be
26 denied any compensation for our work.

27 7. I am the attorney primarily responsible for work performed in this litigation. I
28 have been assisted by Laura L. Franklin and several paralegals in my office. As a result of my

1 firm's diligence in pursuing the factual and legal issues presented by this case, we were able to
2 realistically assess the Class Members' claims, evaluate their damages, and Defendant's
3 exposure. All work performed by our office is done on a contingency basis. Our firm has
4 received no compensation for our time invested or expenses incurred in litigating this case.
5 We have prosecuted this litigation up to this point, taking the risk that we ultimately would be
6 faced with not receiving any compensation for our work. Since the start of this case, and
7 through the conclusion of this matter, my office will have invested 35 hours on this case,
8 which includes anticipated future time attending the hearing, responding to inquiries from the
9 employees, preparing reports to the court and any other issues that may arise during the settlement
10 payout period.

11 8. The hourly rate for attorneys in this firm is \$550.00. Having represented both
12 employees and employers in the course of my practice, I am familiar with the contingent fee
13 market throughout Northern California, where I primarily practice law, and in other areas of
14 the state in which my firm regularly litigates. In light of our experience and my knowledge of
15 the market, I believe that the hourly rates charged by my firm, and previously approved by this
16 Court, are fair and reasonable and less than those charged by my colleagues in other areas of
17 California and the national market for prosecuting class actions. As such, Counsel requests
18 that the Court grant an hourly rate of \$550.00 for work done on this matter by attorneys in my
19 office. In total, the lodestar for my firm is \$19,250.00.

20 9. To date my firm has advanced \$6,724.46 in litigation costs as follows:

<u>Description</u>	<u>Amount</u>
Court Filings	\$1,481.66
CourtCall	94.00
Mediation	4,950.00
Process Service	198.80

25 10. All costs were reasonable and necessary to the effective prosecution of this
26 matter. Class Counsel advanced costs with no guarantee that any of the costs advanced would
27 be recovered. My office incurred significant fees and expenses in connection with the three
28 scheduled mediations in this case. *Berkeley Cement, Inc. v. Regents of the University of*

1 *California*, (2019) 30 Cal. App. 5th 1133, explains that mediation-related expenses are
2 recoverable under the circumstances of this case.

3 11. I received my bachelor's degree from the University of California, Santa Barbara
4 and Juris Doctor degree from the University of Santa Clara School of Law. I have practiced
5 law since 1987. Laura L. Franklin received her Juris Doctor degree from Monterey College of
6 Law. Mrs. Franklin has practiced law since 2012. The primary emphasis of our practice is
7 employment litigation, and, while we represent both employers and employees, for the last 20
8 years, my office has primarily represented employees in wage and hour cases.

9 12. Fitzpatrick & Swanston, jointly with Diversity Law Group, has zealously
10 represented Plaintiff and the Class, pursuing this lawsuit to conclusion.

11 13. Neither my firm nor my co-counsel has any conflict of interest with the Plaintiff
12 or any Class Member. My firm believes the settlement is fair, reasonable, and in the best
13 interest of the class.

14 I declare under penalty of perjury under the laws of the state of California that foregoing
15 is true and correct and if called as a witness I could and would competently testify to each of the
16 matters stated herein, and that I based the matters stated herein upon my personal knowledge
17 based on first-hand observation, except where the matters stated is an opinion or belief, and as to
18 all such opinions and/or beliefs, I do in fact believe them to be true. This declaration was
19 executed on January 24, 2022, in Salinas, California

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23 B. James Fitzpatrick
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