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Attorneys for Plaintiff Atlas Vargas

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA

Atlas Vargas, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

SKYSKOPES, INC., a Delaware Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 56-2020-00544196-CU-OE-VTA

Assigned for all Purposes to the Hon. Judge
Mark Borrell (Dept. 40)

Motion Reservation #: 2562304

**DECLARATION OF S. ADAM SPIEWAK
ISO PLAINTIFF'S MOTION FOR
APPROVAL OF PRIVATE ATTORNEYS
GENERAL ACT (PAGA) SETTLEMENT**

Hearing Date: May 27, 2021

Hearing Time: 8:30 a.m.

Location: Dept. 40

Complaint Filed: August 11, 2020
FAC Filed: October 15, 2020
Trial Date: None Set

1 I, S. Adam Spiewak, declare:

2 1. I am an attorney licensed to practice law in the State of California. I am counsel
3 for Plaintiff Atlas Vargas (“Plaintiff” or “Vargas”) working with Alexander I. Dychter of Dychter
4 Law Offices, APC, and Walter L. Haines, Esq. of United Employees Law Group, PC, in this case
5 against SkySkopes, Inc. (“Defendant” or “SkySkopes”). I have personal knowledge of the matters
6 stated herein and if called and sworn as a witness, I could and would competently testify under
7 oath thereto.

8 2. I have a Bachelor’s Degree in Philosophy and Economics from Columbia College
9 in the City of New York (Columbia University), earned in 1999. I also completed the General
10 Course program at the London School of Economics. I graduated from Columbia University
11 School of Law in 2002, where I was a Stone Scholar and a Hamilton Fellow.

12 3. In 2004, I was sworn in after I passed the California bar exam on my first attempt,
13 after serving as a Law Clerk in the Eastern District of New York from 2002 to 2003.

14 4. I have 17 years of experience in litigation in California, primarily in the area of
15 employment law, which is my specialty. I have served as counsel of record for dozens of wage
16 and hour class actions over the past decade, including as an attorney with multiple national law
17 firms on the defense side as well as numerous cases engaged as class counsel.

18 5. Based on my understanding and analysis of the pertinent facts, the applicable law,
19 the positions and defenses of SkySkopes, and the alternative to a negotiated agreement, which
20 would have delayed any potential benefit to the aggrieved employees, the settlement reached in my
21 opinion is beneficial to the aggrieved employees and the State of California and satisfies the
22 requirements of being fair, adequate, and reasonable.

23 6. To date, I have spent a total of more than **73 hours** working on this case since its
24 inception in conjunction with Alexander I. Dychter of Dychter Law Offices, APC and United
25 Employees Law Group, PC, spanning from June 2020 *through* the present. This total does not
26 include any additional time that I anticipate spending in response to any future inquiries from
27 Aggrieved Employees regarding case status and payment timing, responding to questions from the
28 Settlement Administrator (Atticus Administration), or preparing for or appearing at the hearing

1 presently set for May 27, 2021.

2 7. I understand that the law firms working on this matter have done so on a
3 contingency basis since June 2020 (when the pre-filing investigation and intake occurred with Mr.
4 Vargas) and thus bore the risk that litigation would not result in any compensation. I also
5 understand that the costs of suit, including filing the initial complex complaint in the Ventura
6 County Superior Court and a full-day mediation session, were paid for by the law firms, which
7 was a risk because those costs might never have been recovered.

8 8. My current regular billing rate is currently **\$600 per hour**, which I understand to be
9 common in the Southern California legal community for wage & hour attorneys with my level of
10 background and experience in class action litigation. I have been approved at this hourly rate in
11 several other recent cases in California, including the following:

12 a. On March 16, 2021, the Hon. Ronald F. Frazier (Dept. C-65) of the Superior Court
13 of the State of California – County of San Diego in the matter of: *Kevin Nguyen v. Marketsource,*
14 *Inc.* (Case No. 37-2017-000-48458-CU-OE-CTL) approved my hourly rate of \$600.

15 b. On March 10, 2020, the Hon. Elihu M. Berle (Dept. 6) of the Superior Court of the
16 State of California – County of Los Angeles in the matter of: *Edward Barragan v. Consolidated*
17 *Electrical Distributors, Inc.* (Case No. BC706914) approved my hourly rate of \$600.

18 c. On September 13, 2019, the Hon. Winifred Y. Smith (Dept. 21) of the Superior
19 Court of the State of California – County of Alameda in the matter of: *Gershon v. Northern*
20 *California Chair Corporation* (Case No. RG18922502) approved my hourly rate of \$600.

21 d. On February 22, 2019, the Hon. Gregory W. Pollack (Dept. 71) of the Superior
22 Court of the State of California – County of San Diego in the matter of: *Garcia v. General*
23 *Coatings Corporation* (Case No. 37-2016-00041617-CU-OE-CTL) approved my hourly rate of
24 \$600.

25 e. On November 29, 2017, the Hon. Lydia M. Villarreal (Dept. 1) of the Superior
26 Court of the State of California – County of Monterey in the matter of: *Monterey Mushrooms*
27 *Wage and Hour Cases* (JCCP Case No. 4891) approved my hourly rate of \$600.

28

9. My lodestar *through* April 1, 2021 is in excess of **\$43,800** (73 *hours* x \$600 / *hour*). My time sheets reflecting hours billed to this matter for each year from 2020 to 2021 are attached hereto as **Exhibit 1**.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 4th day of May, at Orange, Connecticut.

S. Adam Spielwies

S. Adam Spiewak

EXHIBIT 1

<u>DATE</u>	<u>HOURS</u>	<u>CASE</u>	<u>TASK DESCRIPTION</u>
06/18/20	0.1	SkySkope	Confer with AD re potential case
07/08/20	0.5	SkySkope	confer with AD re case background and filing complaint; email coordination re complaint review and revision
07/09/20	0.5	SkySkope	review and respond to email coordinating complaint drafting, PAGA letter, next steps; review draft complaint and email re causes of action and background facts
07/11/20	2.25	SkySkope	download draft complaint and review / revise
07/13/20	0.1	SkySkope	email from AD re revisions to draft complaint
07/14/20	0.5	SkySkope	Review and revise draft complaint and coordinate with AD re same; research re California UCL and collective action mechanism
07/27/20	0.1	SkySkope	review email
07/28/20	2.5	SkySkope	Review documents; confer w/ AD; discuss employee file, arbitration issues, and who to sue; discuss revisions to complaint and role of PEO; review questions and responses from client re meal breaks and limited time authorized
07/29/20	0.5	SkySkope	confer with AD re revising complaint; review documents and ee file
07/30/20	0.25	SkySkope	review and respond to email from AD re parties and paystubs and arb argeement; review paystubs
07/30/20	0.25	SkySkope	review final version of complaint
07/31/20	0.1	SkySkope	revise draft complaint
08/03/20	1	SkySkope	Confer with AD and review paystubs; discuss revisions to complaint; discuss violations - re meal breaks, rest breaks, unpaid time, etc and strategy and questions for client; review email correspondence and client responses
08/05/20	0.25	SkySkope	consider changes to complaint
08/07/20	1.25	SkySkope	review and revise draft Complaint; review documents and information from client
08/08/20	1.5	SkySkope	coordinate with AD re revised complaint; review and revise complaint; review client docs and communications
08/09/20	0.4	SkySkope	revise complaint draft and consider PAGA claim / letter
08/10/20	1.75	SkySkope	review client communications and confer with AD re same; coordinate re PAGA letter; revise and finalize draft Complaint
10/15/20	0.6	SkySkope	confer with AD re timing of filing FAC and PAGA exhaustion period; update re communication with opposing counsel and early mediation; review correspondence from opposing counsel; research and due diligence re opposing counsel
10/16/20	0.2	SkySkope	Review email correspondence with opposing counsel
10/16/20	0.1	SkySkope	email correspondence with opposing counsel re FAC
11/11/20	0.5	SkySkope	review correspondence from opposing counsel; analyze arbitration agreement
11/13/20	0.7	SkySkope	confer with AD re responding to demand to arbitrate; review arbitration agreement terms; research re enforceability of arbitration agreement not signed by employer; confer re arguments against enforcement of arbitration agreement and retroactivity; review arbitrators to suggest; review and respond to email
11/16/20	0.25	SkySkope	review correspondence and email communications re extension to file responsive pleading, arbitration, call coordinatioin
11/23/20	0.1	SkySkope	F/u with AD re communications with opposing counsel and stip to arbitrate
11/24/20	0.2	SkySkope	f/u re arbitration and call with opposing counsel
12/01/20	0.25	SkySkope	review email correspondence; review deadline for responsive pleading; review proposed stipulaton re arbitration and confer with AD re same and Grossman as arbitrator
12/03/20	0.75	SkySkope	revise proposed Arb Stip and confer with AD re same; review JAMS fees and limits for employment cases;
12/04/20	0.1	SkySkope	review court filing fees; review email; address PAGA issue
12/31/20	0.2	SkySkope	review correspondence and executed stip
2020 Total	17.75		review email correspondence re stay, order, and next court date

<u>DATE</u>	<u>HOURS</u>	<u>CASE</u>	<u>TASK DESCRIPTION</u>
1/1/2021	0.1	SkySkopes	confer with AD re potential mediation
1/5/2021	0.5	SkySkopes	Confer with AD re potential mediators
1/22/2021	0.1	SkySkopes	confer with AD re stipulation and mediation
2/3/2021	0.2	SkySkopes	review and respond to email; review dates to coordinate mediation
2/20/2021	1	SkySkopes	review FAC and PAGA letter / allegations; research re paga penalties and misclassification; review and revise draft PAGA data request letter; coordinate with AD re same
2/21/2021	0.1	SkySkopes	review email
3/4/2021	0.1	SkySkopes	f/u with AD re status of mediation and mediation data request letter
3/17/2021	0.1	SkySkopes	confer with AD
3/18/2021	1.75	SkySkopes	Review and analyze two versions of PAGA class lists from opposing counsel; confer with AD re issues with lists and sample selection; communicate with opposing counsel re lists of PAGA members and reclassified PAGA members; prepare and revise correspondence; perform sample selection assessment
3/22/2021	0.25	SkySkopes	review document production re reimbursement of expenses and company policy materials
3/23/2021	0.2	SkySkopes	review email correspondence with opposing counsel re documents for mediation and f/u with AD re coordination and documents / data and consultant for analysis / mediation
3/29/2021	1.9	SkySkopes	review email correspondence re production; review link to files for mediation data; review and analyze data and documents; email to AD re notes on docs and time records / bonus and meal premium payments
3/30/2021	1.9	SkySkopes	review document production and data for mediation; review complaint and allegations; confer with AD; review email correspondence re mediation data, documents, and contact info
3/31/2021	1.75	SkySkopes	confer with opposing counsel re materials and information for mediation
4/1/2021	3.25	SkySkopes	review documents, data, and spreadsheets for mediation analysis and prep; confer with
4/2/2021	1.75	SkySkopes	Review and respond to correspondence from opposing counsel re materials for mediation; review document production from opposing counsel re meal break waiver forms and reimbursement forms; communicate with client; coordinate analysis with damages consultant; review and respond to email
4/3/2021	0.1	SkySkopes	coordinate with damages consultant
4/4/2021	2	SkySkopes	Review correspondence; coordinate with AD re sharing FAC with consultant; confer with AD re damages, settlement approach, preparing mediation brief; review FAC; review data and docs from Defendant; f/u with AD re bonus and rest break issues
4/5/2021	2	SkySkopes	review and analyze documents re device reimbursement; communicate with opposing counsel re documents and data for mediation; coordinate with damages consultant; conference call with consultant and AD
4/6/2021	3.5	SkySkopes	coordinate and confer with damages consultant regarding model, assumptions and calculations; review damages analysis and confer with AD re same; coordinate with AD re mediator call
4/7/2021	2	SkySkopes	Review and analyze damages report; review and revise mediation brief; review and respond to email
4/8/2021	11.3	SkySkopes	review documents and data provided by opposing counsel for mediation; confer with damages consultant re revised report and confer with AD re same; confer with AD re opening demand; confer with AD re time on case; review and analyze revised report from damages consultant; emails re logistics and confidentiality for mediation; attend mediation
4/9/2021	0.5	SkySkopes	review mediator's written proposal and f/u with AD re accepting or rejecting offer; confer with AD re preparing and sharing with opposing counsel MOU and/or long agreements; review correspondence with opposing counsel coordinating review and signature and finalization of agreements
4/12/2021	0.25	SkySkopes	email communications with AD and opposing counsel finalizing and executing settlement agreements / MOU; correspondence from mediator's office
4/13/2021	2.25	SkySkopes	confer with AD re revising draft proposed settlement agreement; harmonize PAGA settlement with individual settlement; revise settlement agreement; review correspondence with opposing counsel

4/18/2021	0.1	SkySkopes	review email correspondence from opposing counsel re revisions to settlement agreement drafts
4/19/2021	3	SkySkopes	review redlines of draft settlement agreements (PAGA and Individual) and make changes / notes; confer with AD re same; review FAC and PAGA notice; communicate with opposing counsel re revisions to settlement agreements and finalizing same
4/20/2021	0.3	SkySkopes	confer with AD re next steps to finalizing settlement agreements, preparing moving papers, reservation of hearing date
4/26/2021	0.1	SkySkopes	review email follow up re finalizing settlement agreements
4/27/2021	0.1	SkySkopes	email response from opposing counsel
4/28/2021	0.25	SkySkopes	confer with AD re preparing motion for approval of paga settlement; address settlement agreement status and touching base with opposing counsel for update; changing hearing date; review email
4/29/2021	0.1	SkySkopes	confer with AD re communication with opposing counsel and changing hearing date and briefing
4/30/2021	1.6	SkySkopes	review and respond to email from opposing counsel; confer with AD and coordinate re new hearing date; coordinate finalization of settlement agreement docs and confer with opposing counsel re same; call opposing counsel
5/1/2021	1.4	SkySkopes	Prepare and revise draft brief ISO motion for approval of PAGA settlement; coordinate with AD; review settlement agreement; email response to opposing counsel; review proposed order and judgment
5/2/2021	0.1	SkySkopes	coordinate briefing
5/3/2021	5.8	SkySkopes	email communication with opposing counsel re finalize settlement agreements for signature and additional revisions; prepare and revise draft brief ISO motion for approval of PAGA settlement; coordinate with AD; review settlement agreement; review proposed order, judgment, NOM and notice letter; coordinate with AD re costs and calculations; prepare and revise Vargas declaration
5/4/2021	3.8	SkySkopes	review And revise brief ISO Motion for approval of settlement; review and revise proposed judgment, proposed order, NOM, and proposed notice letter to aggrieved employees; confer and coordinate with AD; communicate and coordinate with opposing counsel; review and respond to email; revise Spiewak declaration and exhibit; review supporting declarations
2021 TOTAL	55.5		