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Attorneys for Plaintiffs SHIELA KEE, SILBIA GUTIERREZ,
and BELINDA LECHUGA individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

SHIELA KEE and SILBIA GUTIERREZ and
BELINDA LECHUGA, individually and on
behalf of all other similarly situated
employees,

Plaintiffs,

vs.

DR. JEFFREY A. SALADIN, DENTAL
CORPORATION (D/B/A CHILDREN'S
CHOICE PEDIATRIC DENTAL CARE), a
California Corporation; CC AMULET
MANAGEMENT, LLC, a Delaware Limited
Liability Company; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 34-2020-00290072

CLASS ACTION

*Assigned for All Purposes to Hon. Lauri A. Damrell,
Department 28*

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No. 2662199

Date: September 16, 2022

Time: 9:00 a.m.

Filed: December 8, 2020

FAC Filed: March 2, 2021

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiffs Shiela Kee, Silbia Gutierrez, and Belinda Lechuga
4 (“Plaintiffs”) herein. I am making this declaration on behalf of the named Plaintiffs, the putative class
5 members, and in support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA
6 Settlement (“Motion”). A true and correct copy of the Joint Stipulation Regarding Class Action and
7 PAGA Settlement and Release (“Agreement”) in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiffs' contention
9 that Defendants Dr. Jeffrey A. Saladin, Dental Corporation (D/B/A Children's Choice Pediatric Dental
10 Care) and CC Amulet Management, LLC (“Defendants”) 1) Failure to Pay Overtime Wages 2) Failure
11 to Pay Minimum Wages 3) Meal Period Violations 4) Rest Period Violations 5) Wage Statement
12 Violations 6) Waiting Time Penalties 7) Failure to Reimburse Expenses 8) Unfair Competition 9)
13 Private Attorneys General Act. Plaintiffs also alleged liability for civil penalties under the Private
14 Attorneys General Act (“PAGA”). These claims were based on allegations that Defendants violated
15 California law by 1) failing to properly pay overtime and premium pay due to Defendants' failure to
16 incorporate non-discretionary remuneration (bonuses) into the Regular Rate of Pay (“RROP”); 2)
17 failing to provide rest periods and pay adequate premiums in lieu thereof; 3) failing to provide all meal
18 periods and pay adequate premiums in lieu thereof; 4) failing to pay employees for all hours worked
19 due their failure to pay for time employees spent waiting to clock into work; 5) failing to pay
20 reimbursements for business-related cell phone use and/or mileage; and 6) failing to accurately itemize
21 the hours and wages earned on paystubs issued to class members. The PAGA, waiting time penalty,
22 wage statement violation, and unfair competition claims also derive from these violations.

23 3. Plaintiffs are the only named representatives in this matter. From our initial
24 investigations of Plaintiffs' claims and documents, we believed these claims had merit and could be
25 maintained as a class action. We filed the action on or about December 8, 2020. Plaintiffs exhausted
26 administrative remedies through the Labor and Workforce Development Agency (“LWDA”) prior to
27 amending the Complaint to add a PAGA claim. Plaintiffs filed a notice with the LWDA on September
28 30, 2020, and an amended notice on February 18, 2021, setting forth the facts and theories of liability.

1 A true and correct copy of the operative notice filed with the LWDA is being filed with this Motion as
2 Exhibit C. A copy of the notices were also sent to Defendants via certified mail and the \$75.00 filing
3 fee was remitted to the LWDA at that time. There was no response by the LWDA regarding its intent
4 to investigate the claims alleged in Plaintiffs' notices for more than 65 days. As such, Plaintiffs became
5 authorized to commence a civil action under the PAGA and filed a First Amended Complaint on March
6 2, 2021. A true and correct copy of Plaintiffs' operative Complaint is filed with this Motion as Exhibit
7 B. A copy of the Complaint was uploaded to the LWDA on April 26, 2021, after we received an
8 endorsed copy back from Court.

9 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

10 5. Defendants are represented in this matter by Boutin Jones, Inc. From the beginning,
11 Defendants have contested the merits of this case, the suitability of the case for class action or
12 representative treatment, the manageability of the case at trial, and Plaintiffs' ability to prove a violation
13 in each pay period for each employee among other defenses and contentions they made challenging the
14 propriety of this action. Defendants further contended, even assuming there was a finding supporting
15 the imposition of PAGA penalties, that the Court would likely exercise its discretion to substantially
16 reduce any such penalties owed based on evidence of good faith attempts to comply with California
17 Labor Code obligations by Defendants. Notwithstanding its agreement to settle this matter, Defendants
18 believe the practices Plaintiffs are contending are unlawful either do not exist or, to the extent they do
19 exist, fully comply with all state and federal employment laws with respect to Plaintiffs and Class
20 Members. Also, Defendants have contended that this matter is not appropriate for class certification
21 outside of this proposed class settlement.

22 6. Based on the expected testimony from Plaintiffs and Class Members, a review of
23 Defendants' policies and procedures and other documents relating to the alleged claims, information on
24 the number of Class Members, Class Members' dates of employment, and a representative sample of
25 Class Members' payroll data, the scope of the potential damages to Plaintiffs and Class Members in
26 light of the claims alleged, the uncertainty in the law with regard to certification, and the negotiations
27 that have taken place, I am convinced that the proposed settlement is in the best interest of the class.
28 The length and risks of trial and other normal perils of litigation that impact the value of the claims were

1 also considered and weighed in reaching the Agreement. In addition, I carefully considered the prospect
2 of potential class certification issues as well as the uncertainty of class certification, the difficulties of
3 complex litigation, and the lengthy process of establishing specific damages and various possible delays
4 and appeals in agreeing to the proposed settlement. I further considered the fact that penalties under the
5 PAGA could be substantially cut at the discretion of the Court even if Plaintiffs were successful on
6 proving those claims and there was risk that a Court could find no willfulness in the failure to pay wages
7 at separation, which would eliminate the value of the waiting time penalty claim entirely. Overall, I
8 believe it is more beneficial to secure a guaranteed benefit to the class now rather than to proceed with
9 litigation and potentially obtain zero funds to the class due to legal or factual issues in the case.

10 7. My office, including my partner, Galen T. Shimoda, our paralegals, and myself, along
11 with Plaintiffs' assistance, thoroughly investigated the merits of the claims and potential damages for
12 such claims. The parties engaged in informal discovery and exchange of documents, including a
13 representative sampling of employee data, such as timecards, paystubs, payroll data and relevant policies
14 for the entirety of the statute of limitations applicable to the alleged claims. The discovery covered all
15 aspects of the asserted claims, including certification issues, merits issues, damages, the scope and
16 configuration of Class Members, the content and implementation of the wage and hour policies at issue,
17 issues relating to manageability concerns at trial, among other relevant areas. From this production we
18 were able to determine information critical to a reliable damages analysis such as the average hourly
19 rate, average daily hours worked, average number of workweeks and pay periods that had potential
20 violations based on the asserted claims, the frequency with which violations occurred in a given week
21 and/or pay period, and the number of former employees. This information allowed my office to assess
22 both liability and damages and create an accurate damages model. Plaintiffs assisted in all aspects of
23 this litigation including providing factual information relating to Plaintiffs' and Class Members'
24 employment conditions, providing a substantial number of documents, and answering questions
25 regarding Defendants' factual contentions in this matter. This was important because it directly related
26 to our ability to maintain this case as a class action and our ability to obtain a favorable settlement for
27 the class.
28

1 8. Throughout this litigation our office had numerous communications with Defendants'
2 Counsel discussing our respective positions. The parties engaged in mediation on August 10, 2021,
3 using an experienced mediator, Kelly A. Knight, Esq. We did not resolve the case at mediation and
4 continued negotiations thereafter engaging in further document/data exchanges, expert consultations,
5 and discussions with the mediator. This continued until approximately May 2022, where an agreement
6 as to the total amount to resolve this matter was reached, but additional non-monetary terms continued
7 to be negotiated between counsel. This further negotiation as to non-monetary terms also included
8 further data exchanges and expert consultations. It was only after approximately nineteen (19) months,
9 extensive, arm's length negotiations that the parties were able to reach a settlement. The negotiations
10 were at all times contentious and adversarial, though still professional in nature.

11 9. The parties reviewed and analyzed substantial amounts of data regarding the class
12 claims. Based on our analysis and review of all relevant documents and Class Member information, I
13 have determined that the maximum damages for the asserted class claims is approximately
14 \$13,916,529.17, which includes civil penalties under the PAGA. The likely exposure for PAGA
15 penalties is approximately \$6,986,471.17 based on the counts alleged to the LWDA and the class data.
16 Based on our research, we did not find any prior Labor Commissioner or court decisions that stated
17 Defendants' practices and/or policies were improper. As such, a "subsequent violation" may not be
18 found for penalty calculation purposes and the exposure analysis here is based on an "initial violation"
19 valuation being adopted by any fact finder if this matter went to trial.

20 10. However, I believe the PAGA penalties in this case may be reduced due to the fact that
21 the penalties would be in addition to amounts owed for substantive violations and much of the penalties
22 are based on violations due to technical non-compliance with the Labor Code. Furthermore,
23 Defendants produced a substantial number of documents that a Court may find demonstrates a good
24 faith attempt at compliance that merits the reduction of civil penalties. Courts regularly cut civil
25 penalties on PAGA claims where statutory penalties for the same violations are assessed as well.
26 Courts are statutorily authorized to use discretion to reduce penalties and the range of discretion used
27 varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012)
28 (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal. 2011)

(82% reduction). Thus, civil penalties may be cut to approximately \$1,257,564.81 (82% reduction) or lower given the derivative recovery. Taking this into account, the likely recovery if Plaintiffs were successful at trial on proving all the substantive class damages plus civil penalties after a reduction of the PAGA penalties would be approximately \$8,187,622.81. Taking this into account, Plaintiffs' \$675,000.00 gross recovery under the Agreement represents approximately 8% of the maximum likely value in this matter. After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees and costs, any Enhancement Payment to the Class Representatives, Claims Administrator Costs, and the 75% portion of the PAGA Payment to the LWDA, the net recovery under the Agreement represents approximately 4% of the maximum likely value in this matter. The average net award is approximately \$375.41. I believe the Agreement represents a reasonable compromise of claims based on the legal and factual disputes in this case. The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this Agreement.

11. In agreeing to represent Plaintiffs and take on the case for all Class Members, our office agreed to take this case on a contingency basis, meaning that we would take a percentage of any settlement or judgment should we recover a monetary amount. We took a risk that we would not recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case may be subject to an unfavorable summary judgment ruling. However, we believe it is important to make sure employees are able to find affordable representation in order to ensure that employers are complying with all their legal obligations towards employees and paying employees all their hard-earned wages.

12. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at

McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my legal research and writing course, a Witkin Award in complex civil litigation, being a member of the Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business & Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society and an officer for the Latino Law Students Association from 2009 to 2010.

13. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have been recognized as a Super Lawyer (Rising Star). In September 2018, I was a panel speaker for the Sacramento County Bar Association Labor and Employment Law Section's presentation of "*Epic Systems*, PAGA, and the Future of Employment Arbitration in California." In July 2020, I was a panel speaker for the Association of Defense Counsel of Northern California & Nevada presentation of "Class Actions and PAGA Claims." My practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);

- 1 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
2 Sup. Ct.);
- 3 • *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
4 Ct.);
- 5 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 6 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
7 00271174 (Sac. Sup. Ct.);
- 8 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
9 Ct.);
- 10 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
11 Ct.);
- 12 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
13 Sup. Ct.);
- 14 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 15 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
16 Ct.);
- 17 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 18 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
19 00209613 (Sac. Sup. Ct.);
- 20 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 21 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-
22 00222101 (Sac. Sup. Ct.);
- 23 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 24 • *Ferreya v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 25 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 26 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 27 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 28 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.

Ct.);

- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.) ;
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);

- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

14. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

15. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar) Employment Review seminars from 2014 to the present. His speaking engagements include the following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6) CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21, 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance

1 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
2 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
3 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
4 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
5 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
6 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
7 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
8 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
9 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
10 as a Super Lawyer from 2014 to present.

11 16. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
12 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
13 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
14 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
15 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
16 Federal Courts, including up to certification, settlement, preliminary and final approval, and
17 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.
18 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
19 include the following:

- 20 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 21 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 22 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 23 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 24 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 25 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 26 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 27 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 28 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.

- Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
 - *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
 - *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
 - *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
 - *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
 - *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
 - *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
 - *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
 - *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
 - *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
 - *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
 - *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
 - *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
 - *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
 - *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
 - *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
 - *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
 - *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
 - *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);

- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al.*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);

- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

17. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

18. I am requesting attorneys' fees and costs pursuant to the common fund doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). Plaintiffs and our firm have been able to secure an identifiable benefit on behalf of the class and equity counsels that the cost of the representation should be born equally amongst all class members receiving these benefits. The settlement recovery provides an excellent result and is the product of substantial time and effort in analyzing the facts and law applicable to this case. We agreed to take this case on a contingency basis and as a class action with the possibility that we would not receive any compensation for our time and efforts due to issues regarding the merits and/or certification and have carried that risk over the course of the case. I have reviewed fee arrangements and Court ordered fee awards in similar class cases and I believe that the thirty-five percent (35%) fee request is within the accepted ranges. In my experience with contingency cases in employment law cases, the typical percentage negotiated between parties ranges from thirty-five to forty percent (35% to 40%) in individual litigation. In class action litigation, my experience in my own firm and working with several other firms has been that the typical percentage negotiated between parties and approved by a court ranges from thirty to forty percent (30% to 40%) based on the same factors. I have also reviewed several recent Federal District Court Cases where the Court has approved common fund based fee requests. These cases include *In re Activision Sec. Litigation*, 723 F.Supp. 1373, 1379 (N.D. Cal. 1989), *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-cv-0063, *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745, *Green, et al. v. Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069, *Benitez et al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122, *Chavez et al. v. Petrissans et al.*, USDC Eastern District, Case No. 1:08-cv-00122, and *Willis et al. v. Cal-Western*

1 *Transport*, USDC Eastern District, Case No. 1:00-cv-05695, which are cited in Plaintiffs' Memorandum
2 of Points and Authorities. I believe my request of \$236,250 (approximately 35%) for attorneys' fees is
3 justified given the results obtained on behalf of the class. Moreover, at this time, my firm has advanced
4 all costs for Plaintiffs and Class Members and has not received any compensation whatsoever for our
5 time expended in this case. The expected costs through final approval are not expected to exceed
6 \$15,000.00. Attached as Exhibit E is a true and correct copy of the costs incurred prior to the filing of
7 this Motion and the expected costs incurred through the final approval and fairness hearing. Any
8 difference in the actual costs and the maximum amount allocated under the Agreement will be added to
9 the Net Settlement Amount.

10 19. I have used several class action administrator companies in the wage and hour class
11 actions I have resolved in the past and believe ILYM Group, LLC will provide the best service to
12 administer the proposed class settlement. ILYM Group, LLC has provided a quote for the estimated
13 maximum cost of administering the class settlement of approximately \$11,500.00. A true and correct
14 copy of a cost estimate provided by ILYM Group, LLC is filed with this Motion as Exhibit D. This is
15 only an estimate, and final pricing may vary depending on the issues, if any, that arise during the
16 administration of the settlement. However, the difference between the actual, lesser costs and \$30,000,
17 if any, will be paid to the participating Class Members on a pro rata basis.

18 20. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
19 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
20 2699(l)(2). A true and correct copy of documents demonstrating the settlement documents were
21 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
22 Exhibit G.

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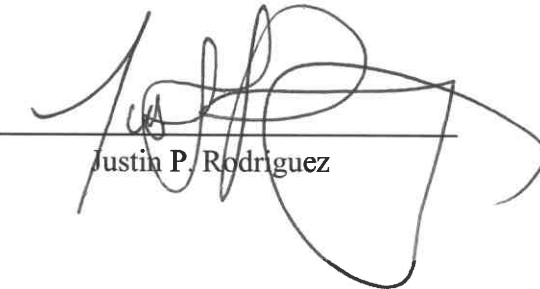
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1 21. A true and correct copy of the proposed Notice of Settlement is being filed with this
2 Motion as Exhibit F.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is
4 true and correct. Executed this 5th day of August 2022 in Elk Grove, California.

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Justin P. Rodriguez