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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO-CENTRAL DIVISION

11 JUAN LIMON, individually and on
12 behalf of himself and others similarly
13 situated,

14 Plaintiffs,

15 vs.

16 ROMAN BERNAL PAINTING
17 CORPORATION DBA PRO-TECH
18 PAINTING COMPANY, a California
19 corporation; ROMAN EUGENE
20 BERNAL, an individual; LISA
21 MICHELLE BERNAL, an individual;
22 and DOES 1 through 50 inclusive

23 Defendants.
24
25
26
27
28

) Case No.: 37-2021-00002171-CU-OE-
) CTL

) Judge: Hon. Timothy Taylor
) Dept.: C-72

) **DECLARATION OF RORY K.**
) **PENDERGAST ISO PLAINTIFFS'**
) **MOTION TO APPROVE PAGA**
) **SETTLEMENT**

) Date Complaint Filed: 01/19/2021
) Trial Date: TBA

) Hearing Date: September 8, 2023
) Hearing Time: 1:30 p.m.

Rory K. Pendergast (SBN 266765)
The Pendergast Law Firm, PC
3019 Polk Avenue
San Diego, California 92104

1 Telephone: (619) 344-8699

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3
4 Rory K. Pendergast declares:

5 1. I am an attorney licensed to practice in the State of California,
6 Massachusetts, and Montana. I am the owner of The Pendergast Law Firm, PC, and
7 am attorney of record for Plaintiff Juan Limon. I make this declaration in support of
8 Plaintiff's Motion to Approve PAGA Settlement. I have personal knowledge of the
9 matters stated in this declaration and if called as a witness, I could competently testify
10 to the truth of the following.

11 2. I was admitted to the California State Bar in December 2009; admitted
12 to the Massachusetts Bar in June 2010; and admitted to the Montana Bar in March
13 2019. I received my undergraduate from The University of Montana in 2001. I
14 graduated from the Thomas Jefferson School of Law in 2009. I externed for the Hon.
15 U.S. Magistrate Judge Leo S. Papas of the U.S. District Court, Southern District of
16 California from January 2008 to October 2008 am a member of the California
17 Employment Lawyer's Association and have been since 2008. Additionally, I am a
18 member of the Consumer Attorneys of San Diego and the Consumer Attorneys of
19 California.

20 3. Since being admitted to practice in California, I have primarily worked
21 for myself, with the exception of three years working for Daniel Gilleon and Mitchell
22 Gilleon Law Firm. Since 2013, I have been on my own. My practice consists of
23 civil litigation, mainly focusing on plaintiffs' side personal injury and employment
24 cases. All of my cases are done on a contingency basis, where I advance all case
25 costs, and have been during the duration of my practice. I currently serve as litigation
26 counsel in a number of single-plaintiff wage and hour matters with claims similar to
27 the claims in this litigation, as well as PAGA representative claims. I currently serve
28 as counsel in multiple cases, including, but not limited to this class action as well as
the cases described below, which make up a partial sampling of my recent cases:

1 a. Class and representative action case on behalf of employees:
2 Cordova v. BAE Systems, Inc., et. al., Case No.: 3-20-CV-2425-
3 JLS-MDD (Southern District) approved in 2022 (class and
4 representative action on behalf of employees of a large defense
5 contractor who failed to pay overtime, breaks, waiting time
6 penalties).

7 b. Representative actions cases on behalf of employees: (1) *Kennedy*
8 *v. Chao Dental Corp., et al.* Case No. BC2624568 (Los Angeles
9 Sup. Ct), Final PAGA settlement approved June 2017 (single and
10 representative action for failure to pay overtime, meals and rest
11 break violations, and wrongful termination); (2) *Matthew v. Crab*
12 *Hut, Inc.* Case No. 37-2015-00026864-CU-OE-CTL (San Diego
13 Sup. Ct.), final PAGA settlement approved June 2016 (single and
14 representative wage and hour action for improper wage deductions,
15 failure to provide proper breaks and accurate pay-stubs).

16 c. Class and Representative action case on behalf of employees:

17 4. I have represented scores of workers in single-plaintiff and representative
18 wage and hour litigation matters since 2009, including while as associate at Mitchell
19 Gilleon and as a partner at Altieri Pendergast. This experience was vital to my current
20 practice, where I continue to focus primarily on the interests of plaintiffs.

21 5. My base hourly rate is \$625.00 per hour. This base rate does not
22 account for factors considered to determine the appropriateness of a multiplier under
23 a lodestar analysis. Given my extensive experience litigating PAGA and wage and
24 hour individual and class actions as plaintiff's counsel, my hourly rate of \$625.00
25 per hour is an appropriate and conservative rate for my services in wage and hour
26 class action cases of this nature and is consistent with (or below) the hourly rate of
27 counsel with similar expertise and experience in the area of complex wage and hour
28 PAGA cases.

1 6. I have reviewed my time records for this matter. To date, I have billed 83
2 hours to this matter, for a total lodestar of \$51,875.00 (\$625 per hour for attorney time),
3 which does not include any time spent on this fee motion. This does not account for the
4 lodestar of other Class Counsel or any multiplier warranted by the outstanding result
5 obtained in this Action. In addition, I expect to spend at least another 10 hours on this
6 matter to monitor the settlement, coordinate with the claims administrator, respond to
7 inquiries from PAGA members, prepare any other appropriate documents. Thus, I
8 expect my total hours in this case to be at least 93 hours, which equates to a lodestar of
9 \$58,125.00.

10 7. I provide the following breakdown for my time through the filing of this
11 declaration. Of the total 83 hours for The Pendergast Law Firm, PC to date: (i) 9 hours
12 were expended on pre-filing investigation, review of client documents, research and
13 analysis throughout the litigation, and general client communications; (ii) 6 hours were
14 expended on research for/preparing pleadings and the PAGA notice; (iii) 4 hours were
15 expended reviewing, analyzing, and preparing strategy regarding Defendant's
16 pleadings, judicial assignments, removal and remand, and client communications
17 regarding same; (iv) 16 hours were expended on general court filings/appearances, case
18 management statements, status conference, trial continuances, and client
19 communications regarding same; (v) 23 hours were expended on discovery, including
20 informal and formal written discovery, deposition prep and deposition time, meet and
21 conferring and motions to compel, analyzing Class/PAGA Member data and
22 Defendants' productions of policies and procedure documents, wage statements, and
23 other class member documentation and information in preparation for the Court
24 mediation and litigation; (vi) 24 hours were expended on coordination of mediation,
25 assisting preparing the mediation brief, research regarding Defendant's claims, creation
26 of damages analysis, and participating in the mediation and post-mediation settlement
27 discussions, and related correspondence; (vii) 1 hours were expended on the settlement
28 approval process, including drafting the preliminary approval motion.

1 8. I have reviewed the costs records for the Pendergast Law Firm, PC and
2 the following costs were advanced by the Pendergast Law Firm, PC:

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Date	Description	Cost
9/2/21	Efiling fee for CMC statement	\$ 13.00
5/29/22	Mailing	\$ 4.28
6/1/22	Efiling fee for ex parte	\$ 13.00
6/1/22	Ex Parte fee	\$ 60.00
6/1/22	efiling fee for motion to compel	\$ 13.00
6/1/22	Motion to compel fee	\$ 60.00
6/1/22	Messenger service fee: Ex parte application	\$ 60.00
7/20/22	Messenger service fee: NOL Delivery to Court	\$ 68.80
9/16/22	efiling fee for opposition to protective order	\$ 13.00
1/31/30	Knox fee for obtaining court records related to defendants	\$ 191.30
3/31/23	Messenger service fee: MSC brief delivery	\$ 60.00
7/7/23	Messenger service fee: MSC brief delivery	\$ 82.50
TOTAL		\$ 638.88

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15 I declare under penalty of perjury under the laws of the State of California
16 and under the laws of the United States of America that the foregoing is true and
17 correct.

18 Executed this 14 August 2023 at San Diego, California.

19 
20 _____
21 Rory K. Pendergast