

Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

David J. Lee, Esq., State Bar No. 296294
david@davidjleelaw.com
DAVID LEE LAW, APC
515 S. Flower Street, Suite 1900
Los Angeles, California 90071
T: (213) 236-3536
F: (866) 658-4722

Attorneys for Plaintiffs, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JAMES PEVEY, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

LUMBER CITY CORP., a California
corporation d/b/a DIY HOME CENTER;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVDS2010240

[Assigned for all purposes to the Hon. David
Cohn, Dept. S-26]

**DECLARATION OF MAX W. GAVRON IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 2, 2022
Time: 10:00 a.m.
Dept.: S-26

Complaint Filed: June 2, 2020
FAC Filed: January 29, 2021
SAC Filed: July 23, 2021
Trial Date: Not Set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

I, Max W. Gavron, declare as follows:

1. I am an attorney at law duly admitted to practice before all courts in the State of
 2. nia and am a member of the law firm of the Diversity Law Group, P.C., one of the
 3. ys of record for Plaintiffs James Pevey and Anne Peterson (together, “Plaintiffs”) in the
 4. entitled action. I have personal knowledge of the matters set forth herein, and if called
 5. s a witness to testify thereto, I could and would competently do so.

2. The Notice of Class Action Settlement (“Notice Packet”) provided Class members with my office’s contact information, where they could further seek information regarding the class settlement, leave questions for the Settlement Administrator, and update their contact information. As part of the settlement process, I have received a number of phone calls from Class members regarding this settlement, all of whom I have responded to.

3. There were no objections to the amount of attorneys' fees or litigation costs that Counsel seek in this case and for which Plaintiffs ask the Court for final approval.

4. The Settlement Agreement was the product of negotiation between highly able experienced attorneys on both sides who possessed the relevant data and extensive legal knowledge with which they had carefully analyzed. Class Counsel engaged in extensive factual investigation before settling, including reviewing class data produced by Defendant relating to the number of wage statements issued to each putative class member. This allowed Plaintiffs to conduct a full damage analysis.

5. The settlement in the case at bar warrants approval and carries a presumption of fairness. As previously noted in the application for Preliminary Approval, this current settlement was negotiated at arm's length. I support the settlement as fair, reasonable, and adequate, and in the best interest of the Class Members as a whole.

6. I have been approved as class counsel in numerous other wage/hour class actions and have been granted class certification and final approval.

7. To date, I have incurred approximately 231.1 hours in connection with the on of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred

1 to date.

2 8. I also anticipate spending an additional 10 hours conferring and reviewing e-mails
3 and other written communications with counsel for Defendant, the Settlement Administrator, and
4 Class Members regarding post final approval matters, including payments and related issues.

5 9. The total lodestar for my hours will be approximately \$144,660.00 based on an
6 hourly rate of \$600.00 per hour, including 10 hours in anticipated time spent after the Court
7 grants final approval (241.1 hours x \$600.00 per hour). I have been approved at \$600.00 per hour
8 in *Weybrew v. BEI Construction*, Solano County Superior Court Case No. FCS055658 (January
9 14, 2022). Prior to that throughout 2020 and 2021, I was approved at an hourly rate of at
10 \$550.00 per hour for work performed prior to those years in *James v RADC Enterprises, Inc.*,
11 San Bernardino County Superior Court, Case No. CIV-DS1933035 (September 29, 2020),
12 *Hector Luna v. Triple Canopy, Inc.*, Santa Clara County Superior Court, Case No. 19CV345169
13 (October 22, 2020), *Melbert Magpugay v. Harbor Electronics, Inc.*, Santa Clara County Superior
14 Court Case No. 19CV352547 (January 27, 2021), *Foster v. Schindler Elevator Corp.*, Alameda
15 County Superior Court Case no. RG19029640 (March 2, 2021), *Martin v. Streetplus Company,*
16 *LLC, et al*, Los Angeles Superior Court Case No. 19STCV15522 (July 13, 2021), *Morris v. Blue*
17 *Mountain Enterprises, LLC*, Solano County Superior Court, Case No. FCS05.858 (August 4,
18 2021).

19 10. I am one of the primary attorneys on this matter. My qualifications are as follows:
20 I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013,
21 magna cum laude. I was in the top 5% of my class. During my time at Southwestern, I was a
22 Notes and Comments Editor on the Southwestern Law Review. I also received awards for
23 achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at
24 the United States District Court for the Central District. Immediately after law school, I taught
25 several courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I
26 taught those courses for approximately four years.

27 11. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately
28 September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted

1 in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute.
2 I also regularly litigated cases across the civil litigation spectrum, including employment matters.

3 12. From February 2016, through Fall 2017, I practiced at the international law firm
4 of Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
5 companies in Multi-District Litigation primarily in the product liability sphere. I also
6 successfully drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary
7 judgment decision regarding trade secret issues, in addition to working in several other practice
8 groups. During this time, the firm routinely charged \$500 per hour for my services to clients.

9 13. From September 2017, through September 2018, I served as a law clerk to a
10 Judge sitting on the United States District Court, Central District of California. I regularly
11 prepared bench memoranda, on cases involving all types of civil litigation, including regularly
12 working on wage and hour class actions.

13 14. I am currently an associate at the law firm Diversity Law Group, P.C., an
14 employment law firm that has handled numerous wage and hour class and individual actions, on
15 both plaintiff and defense sides. My current practice focuses on employment matters involving
16 both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior
17 Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the
18 United States District Courts for the Central, Northern, and Eastern Districts of California. I am
19 currently or have handled numerous wage and hour class action lawsuits with the firm, including,
20 but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-001906,
21 Stanislaus County Superior Court); *Cunningham, et al. v. Diverse Business Solutions* (Case No.
22 CIVDS1817095, San Bernardino County Superior Court); *Heredia v. Eddie Bauer LLC* (Case
23 No. 16CV300475, United States District Court, Northern District of California); *Parsons v.*
24 *Estenson Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior Court); and
25 *Coronel v. Pinnacle Agriculture* (Case No. 18CV004287, Monterey County Superior Court).

26 15. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of
27 Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28,
28 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our

clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

16. I have also assisted the firm in numerous wage and hour class action mediations.

17. Concurrent with the filing of this Motion, my office provided notice to the Labor and Workforce Development Agency (“LWDA”).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 8th day of April 2022, at Los Angeles, California.


Max W. Gavron

EXHIBIT A

Pevey v. DIY Home Center
Time and Task Chart for Max W. Gavron

Hours	Description of Work
16.1	Factual investigation, draft and revise LWDA letter and complaint and confer with client and co-counsel re same; interview putative class members.
3.1	Legal research re theories of liability asserted in complaint prior to filing to update and refine theories and allegations.
1.2	Analyze and review initial schedule documents from Court including notice of CMC; complex guidelines.
2.3	Meet and confer with defense counsel re representation; claims in case and anticipated course of litigation; meet and confer with co-counsel re same.
6.9	Meet and confer with defense counsel re possible early mediation; draft and revise request for data and information required to participate in mediation; correspond with and investigate proposed mediators; confer with co-counsel re same.
1.2	Draft and revise initial CMC statement; meet and confer with defense counsel re same.
.8	Draft and revise joint stipulation to stay case pending early mediation effort.
4.9	Analyze claims of Anne Peterson in related case, including review of docket, complaint, and filings; meet and confer with counsel re same; meet and confer with defense counsel re progress of litigation and mediation efforts in light of case filed by Anne Peterson alleging similar claims.
13.1	Analyze and review data provided by defense counsel in advance of mediation; conduct research re same; confer with client and co-counsel; perform damages analysis; correspond with defense counsel re follow up questions and clarifications.
4.1	Conduct research re class and PAGA settlements for similar claims; confer with co-counsel re mediation strategy; conduct research re Defendant and litigation history to prepare for mediation.
6.4	Draft and revise mediation brief; confer with co-counsel and client re same.
9.1	Prepare for and attend mediation.
1.5	Confer with mediator after unsuccessful mediation; confer with co-counsel re same and strategize re further litigation.
2.2	Draft and revise First Amended Complaint; confer with Anne Peterson and counsel re allegations; draft and revise joint stipulation to file FAC and meet and confer with defense counsel re same; analyze and review Defendant's answer to FAC.
3.4	Meet and confer with defense counsel re protective order; draft and revise stipulated protective order.

3.9	Draft and revise written discovery including interrogatories and requests for production; analyze and review file and data to prepare for drafting same.
25.1	Analyze and review Defendant's written discovery, including interrogatories and requests for production to two plaintiffs; draft and revise responses to same; confer with clients and review documents to prepare draft responses to written discovery.
35.4	Analyze and review Defendant's responses to written discovery and document production spanning approximately 900 pages; identify meet and confer items; confer with clients re responses to assess accuracy and identify defects; correspond with defense counsel to meet and confer regarding alleged deficient responses; draft and meet and confer regarding distribution of Belaire-West notice to putative class members and aggrieved employees; confer with third-party administrator re Belaire-West notice.
19.3	Analyze and review California Supreme Court's decision in <i>Donohue</i> to evaluate whether applicable to facts of this case; confer with clients and conduct interviews of employees to further analyze claim under <i>Donohue</i> ; analyze time and pay records of employees for same purpose; meet and confer with defense counsel re anticipated second amended complaint.
23.4	Draft and revise Motion for Leave to File Second Amended Complaint; conduct legal research re same; confer with co-counsel re same; analyze and review Defendant's opposition; draft and revise reply; analyze and review Court's tentative decision and meet and confer with defense counsel re same.
4.2	Confer with mediator in light of amended complaint and additional theory of liability; confer with defense counsel re same to reengage in settlement discussions.
16.1	Draft and revise long form settlement agreement and proposed class notice; confer with defense counsel; confer with co-counsel re same.
9.2	Draft and revise motion for preliminary approval supporting documents; correspond with co-counsel re same; prepare for hearing and analyze and review Court's tentative ruling re same.
13.1	Correspond with settlement administrator re notice process; field calls from class members regarding settlement; confer with co-counsel re same.
5.1	Draft and revise motion for final approval and supporting declaration.
231.1	TOTAL HOURS