

Nicholas A. Carlin, State Bar No. 112532
Brian S. Conlon, State Bar No. 303456
Robert Carroll III, State Bar No. 314345
PHILLIPS, ERLEWINE, GIVEN & CARLIN LLP
39 Mesa Street, Suite 201- The Presidio
San Francisco, CA 94129
Telephone: 415-398-0900
Fax: 415-398-0911
Email: nac@phillaw.com
bsc@phillaw.com
rxc@phillaw.com

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO**

HUY TRAN, et al.,

Plaintiffs,

vs.

WISE AUTO GROUP, et al.

Defendants.

Case No. FCS055892

**DECLARATION OF NICHOLAS A.
CARLIN IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: March 20, 2026

Time: 9 a.m.

Dept. 3

1 I, Nicholas A. Carlin, hereby declare:

2 1. I am a partner with Phillips, Erlewine, Given & Carlin LLP (“PEGC”), our firm
3 serve as attorneys of record for Plaintiffs Huy Tran, Jennifer Avila, and Soulinthong
4 Soungpanya. I make this declaration in support of Plaintiff’s Motion for Class Certification. I
5 have personal knowledge of the facts set forth in this declaration. I could testify competently to
6 the facts set forth in this declaration if called upon to do so.

7 2. I have a B.A. in Physics from Harvard University (1978) and a J.D. from
8 Hastings College of the Law (1984). I have been a member in good standing of the State Bar
9 of California since 1984. I am also admitted before, *inter alia*, the U.S. District Court,
10 Northern District of California, the U.S. District Court, Central District of California, the U.S.
11 District Court, Eastern District of California, and the U.S. Court of Appeals for the Ninth and
12 Eleventh Circuits. I have practiced law for over 35 years and have extensive experience
13 handling complex business litigation issues such as the ones involved in this action. I have
14 tried numerous civil cases and arbitrations to verdict, including twelve jury trials. I am a
15 member of ABOTA, which only accepts attorneys with, *inter alia*, at least 10 substantial jury
16 trials.

17 3. My legal practice emphasizes complex litigation including business, employment
18 and class action litigation, in state and federal court.

19 4. I have taught at the University of San Francisco Law School, the University of
20 California at Berkeley School of Law (Boalt Hall), and Hastings College of the Law. My legal
21 practice emphasizes complex litigation including employment and other class actions. For
22 example:

23 a. I was appointed class counsel in *Lahlou v. Boboquivaris LLC, et al.*, San
24 Francisco County, Case No. CGC-20-582158 (wage and hour class action on behalf of
25 about 200 restaurant employees; settled for \$200,000, finally approved on November 16, 2022).

26 b. I was lead counsel in *Lahlou v. Cavallo Point, LLC, et al.*, Marin County,
27 Case No. CIV 2000282 (PAGA-only action on behalf of about 180 restaurant employees, settled
28 for \$300,000; approved on April 21, 2022).

c. I was appointed class counsel in *Johnson v. Winter Chevrolet, Inc., et al.*, Contra Costa County, Case No. CIVMSC19-02292 (wage and hour class action on behalf of about 150 automobile dealership employees; settled for \$449,250, finally approved on February 19, 2021).

d. I was appointed class counsel in *Rothschild v. Eatwell Enterprises, L.P., et al.*, San Francisco County, Case No. CGC-18-563796 (wage and hour class action on behalf of 150 restaurant employees; settled for \$1 million, finally approved on December 13, 2019).

e. I was appointed class counsel in *Lyons v. Tracy Auto Center, et al.*, San Joaquin County, Case No. STK-CV-UOE-2018-12399 (wage and hour class action on behalf of over 500 automobile dealership employees; settled for \$1.2 million, finally approved on August 22, 2019).

f. I was appointed co-class counsel in *Capote v. DCH Auto Group (USA), Inc., et al.*, Los Angeles County Case No. BC565052 (wage and hour class action on behalf of over 3,000 non-technician automobile dealership employees; settled for \$6.5 million and was finally approved on January 5, 2018).

g. I was appointed class counsel in *Smith v. Digirad Imaging Solutions, Inc.*, Alameda County Case No. RG16816494 (wage and hour action class action on behalf of diagnostic imaging technicians which settled for \$1,300,000 and was granted final approval on December 8, 2017).

h. I was co-lead counsel in *DCH Auto Wage and Hour Cases* (JCCP No. 4833) (coordination of wage and hour actions against DCH Auto Group, *et al.* on behalf of a class of auto technicians which settled for \$4,035,600 and was granted final approval on May 18, 2017).

i. I was appointed lead counsel in *Sayre v. SFS 39, Inc.*, San Francisco Superior Court Case No. CGC-12-523838 (wage and hour class action on behalf of some 700 minimum-wage restaurant workers, settled for \$1.9 million).

j. I was appointed co-lead counsel in *Opperman v. Path*, N.D. Cal. Case No. 13-cv-00453-JST (complex consumer class action involving iPhone applications that allegedly

1 uploaded users’ contacts without permission, against Apple Inc. and over a dozen defendants. A
2 settlement with some of the defendants for \$5.3 million was finally approved on March 27,
3 2018).

4 k. I was appointed co-lead counsel in *In Re: Honest Marketing Litigation*,
5 S.D.N.Y. Case No. 16-cv-01125 (complex consumer class action which settled for \$7,350,000
6 and was finally approved on December 8, 2017).

7 l. I was one of the original attorneys to bring a class action against Bank of
8 America and other nationwide banks for charging improper overdraft fees on debit cards. I was
9 MDL “co-team leader” and class counsel for Plaintiffs in the multi-district class action litigation
10 initiated by bank customers against Bank of America, N.A., in the actions titled *In Re: Checking*
11 *Account Overdraft Litigation*, Case No. 1:09-md-02036-JLK; *Tornes v. Bank of America, N.A.*,
12 S.D. Fla. Case No. 1:08-cv-23323-JLK; and *Yourke, et al. v. Bank of America, N.A.*, S.D. Fla.
13 Case No. 1:09-cv-21963-JLK; N.D. Cal. Case No. 3:09-2186. The case settled for \$410 million.
14 I was later honored as a finalist for “Consumer Attorney of the Year” by the Consumer
15 Attorneys of California for my work on this matter.

16 m. Also as part of the *In Re: Checking Account Overdraft Litigation* MDL
17 above (MDL Case No. 1:09-MD-02036-JLK) I was appointed Class Counsel in *Given v.*
18 *Manufacturers and Traders Trust Company a/k/a M&T Bank*, S.D. Fla. Case No. 1-10-CV-
19 20478-JLK, D.Md. Case No. 1:09-cv-02207-WDQ (\$4 million settlement), and in *Dee et al., v.*
20 *Bank of the West*, S.D. Fla. Case No. 1:10-cv-22985-JLK; N.D. Cal. Case No. 4:10-cv-02736
21 (\$18 million settlement).

22 n. My firm (myself and my partner) were appointed co-lead counsel in two
23 class actions involving the accounting for income from digital downloads of recorded music:
24 *James v. UMG Recordings, Inc.*, Case No. 3:11-cv-01613-SI (\$11.5 million settlement plus
25 increased future royalties) and *Sledge, et al. v. Warner Music Group Corp.*, Case No. 12-CV-
26 0559-RS (\$11.5 million settlement plus increased future royalties).

27 o. I was appointed lead counsel in *Combrisson v. City and County of San*
28 *Francisco*, San Francisco Court Case No. CGC-09-489400 (balance billing class action, class

received a 100 cents on the dollar recovery—with no reduction for costs or fees, which the City paid separately from the damage award).

5. Additional information and biographical data illustrating my and my firm’s experience in handling class actions, complex litigation, and the types of claims asserted in the instant action, as well as demonstrating the firm’s knowledge of the applicable law and possession of resources adequate for providing committed representation of the putative class may be found at <http://www.phillaw.com>.

6. The other attorneys from our firm who have been primarily responsible for litigating this case are my partner Brian S. Conlon and our Senior Counsel Robert Carroll III.

7. Mr. Conlon is a 2011 graduate of Harvard Law School (*cum laude*). He is admitted to practice in the States of New York and California. He served as a staff attorney for the United States Court of Appeals for the Eighth Circuit from 2012 to 2014 and has been practicing law with our firm since 2015. Mr. Conlon’s practice focuses on employment, class action, and intellectual property matters. He was also appointed class counsel in the *Lahlou*, *Lyons*, *Rothschild*, and *Johnson* matters described above, among others.

8. Mr. Carroll is a University of California, Berkeley School of Law graduate who has been practicing law since 2017. Since joining PEGC in 2021, Mr. Carroll has litigated and arbitrated several wage and hour matters.

CASE SUMMARY

9. Plaintiffs are former non-exempt employees at Lloyd A. Wise Motors, Inc., Anthony A. Batarse, Inc., Vallejo Nissan, Inc. and Wise Vision, Inc. (“Settling Defendants”), who among them operate Hyundai of Vacaville, Kia of Vacaville, Nissan of Vacaville, GMC of Vacaville, and Nissan of Vallejo.

10. Huy Tran worked at Kia of Vacaville and Nissan of Vacaville from December 2018 to March 2020 as a service advisor.

11. Soulinthong Soungpanya worked at Nissan of Vallejo, Kia of Vacaville, and Nissan of Vacaville from March 2017 to March 2020, first as a service advisor, and then as a service manager.

12. Jennifer Avila worked for Wise Vision Inc. across many dealerships from March 2022 to June 2022 as a Used Car Reconditioning Specialist.

14. Plaintiffs' counsel also interviewed hundreds of putative class members to further investigate the class claims.

16. Defendants deposed each Plaintiff for two full days, and also deposed approximately 30 putative class members who had submitted declarations in support of Plaintiffs' class certification motion.

18. Based on this discovery and investigation, and also through the process of seeking class certification, the parties were well-informed during the negotiations taking place at mediation and negotiated from a knowledgeable position.

19. The parties mediated unsuccessfully with Russ Wunderli in September 2021, and then again with Hon George C. Hernandez in June 2022 and December 2024.

20. In July 2025, the parties participated in a day of mediation with Hon. W. Scott Snowden (Ret.) of JAMS, a well-respected wage and hour class action mediator recommended to the parties by the Court. On July 30, 2025, Plaintiffs and Settling Defendants reached a tentative settlement.

21. The parties negotiated the proposed Settlement in good faith and at arms-length through four days of mediation over several months with well-respected mediators.

22. In reaching the Settlement, all counsel relied on their substantial experience in similar cases and conducted analysis of the legal and factual issues.

23. There was no collusion or self-dealing in any part of these negotiations or the resulting Settlement.

24. On October 27, 2025, the parties executed a long form class-wide and PAGA representative settlement (titled “Stipulation of Class Action and PAGA Settlement,” hereinafter referred to as the “Settlement Agreement”, attached as Exhibit A) on behalf of all non-exempt employees of Settling Defendants as follows: Class Members shall include all current and former non-exempt employees who were employed by Defendants Anthony A. Batarsee, Inc., Lloyd A. Wise Motors, Inc., and/or Vallejo Nissan, Inc. and paid on an hourly basis and/or commission basis, any time from January 7, 2017 through July 30, 2025; and also includes all current and former non-exempt employees who were employed by Wise Vision, Inc., and paid on an hourly basis and/or commission basis, at any time from November 17, 2019 through July 30, 2025.

25. The Settlement Agreement amounts to a total recovery of \$875,000 for the approximately 1,018 employees. This is an excellent result for the class members.

26. This Settlement, if approved and confirmed, will finally and fully dispose of this action.

SUMMARY OF PARTICULAR SETTLEMENT TERMS

27. Defendants’ counsel will not oppose Plaintiffs’ counsel’s application for an award of attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, or

1 \$291,666.66, in addition to costs reasonably incurred in prosecuting this case, to be paid out of
2 the Gross Settlement Amount. (Settlement Agreement § A.2.) This agreement was reached
3 only after the parties had agreed on all the other main points of the settlement.

4 28. Costs are approximately \$139,600.

5 29. Parties have agreed to use Apex Class Action LLC (“Apex” and “Settlement
6 Administrator”) as the Settlement Administrator for this action. A true and correct copy of a bid
7 estimating costs for administration at \$11,250 – which is reasonable in relation to the class size
8 and work to be performed – is attached to this declaration as Exhibit B.

9 30. The methodology of allocating payments to Settlement Class members for each
10 Individual Settlement Payment will be calculated by (a) dividing the NSA by the total number of
11 Workweeks collectively worked by all Participating Class Members during the relevant Class
12 Period, and (b) multiplying the result by the number of Workweeks worked by each individual
13 Participating Class Member. One day worked in a given Workweek will be credited as a
14 Workweek for purposes of this calculation; this is the most equitable way to distribute the
15 payments to the Settlement Class Members because they generally all share the same claims, but
16 did not work for the same hours, or paid the same hourly rate.

17 31. The average gross recovery (before reduction for fees, costs, etc.) is
18 approximately \$859.53 per Class Member (\$875,000 (Gross Settlement Amount) /1,018 Class
19 Members), and the average net recovery is approximately \$331.52 (\$337,483.34/ 1,018;
20 \$875,000 - \$291,666.66 (Attorneys’ Fees) - \$139,600 (Class Counsel Costs) - \$45,000 (Class
21 Service Awards) - \$11,250 (Administration Costs) - \$50,000 (PAGA Allocation) = \$337,483.34
22 (Net Settlement Amount)).

23 **SUMMARY OF PARTICULAR INFORMATION UNDERLYING THE SETTLEMENT**

24 32. Based on Defendants’ payroll data, a fair approximation of the settlement class
25 members’ average hourly wage rate earned across the approximately 8.5-year Class Period is
26 \$16.45 per hour. As of June 3, 2025, Defendants Anthony A. Batarse Inc. and Lloyd A. Wise
27 Motors, Inc. estimated that they respectively paid an average of \$16.68 per hour and \$16.22 per
28 hour from the start of the Class Period until the date of those responses, averaging out to an

1 hourly rate of \$16.45. A true and correct copy of portions of Defendants’ discovery responses
2 are attached as Exhibit C.

3 33. The Settlement Class Period runs at its longest from January 7, 2017 to July 30,
4 2025 (approximately 8.5 years) and the PAGA period runs at its longest from October 30, 2019
5 to July 30, 2025 (approximately 5.75 years). (Settlement Agreement § A.27.) Defendants’
6 discovery and time records have indicated that Class Members are paid on a bi-weekly basis.
7 Accordingly, and given there are approximately 26 biweekly pay periods for the 52 workweeks
8 in a year, Plaintiffs estimate there are approximately 30,050 PAGA Pay Periods at issue in the
9 instant litigation ($88,852 \text{ Workweeks} * 5.75/8.5 * 26/52 = 30,050 \text{ PAGA Pay Periods}$).

10 34. Plaintiff’s economic expert opined that through 2023, based on his review of
11 Defendants’ records in connection with mediation of this matter, that a conservative estimate
12 was that they failed to provide lawful meal breaks 27.6% of the time for all shifts worked,
13 correlating to a meal break violation rate of 1.38 times per workweek ($5 \text{ days} * 27.6\% = 1.38$
14 Workweeks). A true and correct copy of portions of his declaration – the relevant section being
15 paragraph 14 – is attached as Exhibit D.

16 35. Defendants’ discovery responses and time records indicated that Class Members
17 generally worked 8 hour shifts, meaning that to a significant extent, working through meal
18 breaks would put their total compensable time to 8.5 hours, entitling them to one half hour of
19 overtime.

20 36. It is my understanding that the Settling Defendants have argued at various points
21 in this litigation that (1) they were unaware of alleged certain violations, (2) that corrective
22 actions were taken to address certain violations, and that (3) PAGA penalties for violations
23 coupled with class recovery for these violations is duplicative.

24 37. It is my understanding that the Settling Defendants have argued at various points
25 that for purposes of whether breaks were provided, there are factual differences between
26 different types of employees and across dealerships, including a lack of a uniform policy – such
27 that class certification and determination of class damages would be impossible and significantly
28 lowering the value of the class claims.

1 38. Defendants provided evidence indicating that starting in 2021 or so, many
2 employees were paid premium pay for missed meal breaks on a somewhat regular basis.
3 Furthermore, Defendants provided evidence that at least some personal cell phones were
4 reimbursed starting in or around 2022.

5 39. Parties to this litigation have not produced contemporaneous evidence of rest
6 breaks at Defendants’ dealerships.

7 40. Although a lodestar cross-check is not required under *Laffitte*, Class Counsel’s
8 lodestar far exceeds the fees sought in this matter. Class Counsel will provide fee and cost detail
9 with their motion for final approval.

10 41. The resolution of the claims of over a thousand employees in one action is
11 superior to litigating their claims piecemeal in separate actions. This class action settlement
12 creates judicial economy and avoids inconsistent and contradictory results.

13 42. The \$15,000 service awards sought by Plaintiffs are reasonable in light of (1) the
14 significant time and effort they invested in this litigation; (2) executing a broader release of
15 claims; (3) the risk undertaken by each of them in prosecuting this case and challenging their
16 former employers’ alleged labor practices on behalf of the class; and (4) the substantial work
17 performed by these individuals assisting Plaintiffs’ counsel with the successful prosecution of
18 this actions.

19 43. Plaintiffs have substantial recoverability concerns regarding Settling Defendants.
20 In Wise Vision’s January 24, 2025 Opposition to Plaintiffs’ Motion for Class Certification, Wise
21 Vision indicated it “[was] no longer in operation.” Lloyd A. Wise Motors, Inc. operates Nissan
22 of Vacaville. A true and correct copy of the news article found at the following hyperlink
23 ([https://www.kron4.com/news/bay-area/two-nissan-dealerships-in-north-bay-shut-down-amid-](https://www.kron4.com/news/bay-area/two-nissan-dealerships-in-north-bay-shut-down-amid-recent-struggles-for-japanese-automaker/)
24 [recent-struggles-for-japanese-automaker/](https://www.kron4.com/news/bay-area/two-nissan-dealerships-in-north-bay-shut-down-amid-recent-struggles-for-japanese-automaker/)) as of October 29, 2025 at 10:44 a.m. is attached to
25 this declaration as Exhibit E.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and that this declaration was executed on October 30, 2025 at San
3 Francisco, California.



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5
6 Nicholas A. Carlin