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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

MONICA MONTALBO, individually, and
on behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

HM.CLAUSE, INC. DBA HARRIS
MORAN SEED COMPANY, a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

MONICA MONTALBO, individually, and
on behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act;

Plaintiff,

vs.

HM.CLAUSE, INC., DBA HARRIS
MORAN SEED COMPANY, a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. CV-20-004516 [Lead]
[Consolidated with Case No. CV-20-005703]

ASSIGNED FOR ALL PURPOSES TO:

JUDGE: SONNY S. SANDHU

DEPT.: 24

CLASS ACTION

**DECLARATION OF EDWIN AIWAZIAN
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Plaintiff's Motion for Preliminary Approval
of Class Action Settlement; Declaration of
Proposed Class Representative (Monica
Montalbo); and [Proposed] Order filed
concurrently herewith]

Date: October 14, 2021

Time: 8:30 a.m.

Department: 24

Complaint October 13, 2020

Filed: None Set

Trial Date:

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Monica Montalbo. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EDUCATION

2. In May of 2004, I graduated from *Pepperdine University School of Law* with a Juris Doctor degree. I have extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, I have previously served as a *pro bono* mediator for the Los Angeles Superior Court. In October of 2000, I obtained a Litigation Paralegal Certificate from the *UCLA Extension Program*. During the summer of 2000, I studied Legal Writing at *Harvard University*. In April of 1999, I obtained a Bachelor of Arts degree in Communication with a concentration in Natural Sciences from *Pepperdine University*.

JUDICIAL EXTERNSHIPS

3. From approximately September 2002 to approximately December 2002, I served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the *United States Court of Appeals for the Ninth Circuit*. From approximately June 2002 to approximately August 2002, I served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the *California Court of Appeal for the Second Appellate District*.

LITIGATION AND CLASS ACTION EXPERIENCE

4. In December of 2004, I obtained a license to practice law from the California State Bar. From approximately December 2004 to approximately August 2008, I was employed by the law firm of *Girardi & Keese*.

5. At *Girardi & Keese*, my practice focused on class actions and other complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases involving insurance bad faith, premises liability, and medical negligence. While employed by

1 *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150
2 depositions, and prepared dozens of expert witnesses for deposition or trial.

3 6. Since its inception, in or around October of 2008, *Lawyers for Justice, PC* has almost
4 exclusively focused on the prosecution of consumer and employment class actions, involving
5 wage-and-hour claims, race discrimination, unfair business practices or consumer fraud.
6 Currently, we are the attorneys of record in over a dozen employment-related putative class actions
7 in both state and federal courts in the State of California. Our firm has successfully litigated cases
8 involving the executive, administrative, and other overtime exemptions to the State of California
9 and federal overtime compensation requirements. During this relatively short time, in association
10 with other law firms, we have recovered millions of dollars on behalf of thousands of individuals
11 in California.

12 **EXAMPLES OF CLASS ACTION RESULTS**

13 7. What follows are just a few examples of the type of results we have achieved on
14 behalf of our clients:

15 a) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
16 and-hour class and representative action against a major property management company involving
17 allegations of misclassification of various “manager” positions. On September 20, 2010, the court
18 granted final approval of the class and representative action settlement. The Los Angeles County
19 Superior Court Case Number is BC400414.

20 b) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
21 and-hour class action against a national retailer involving allegations of misclassification of the
22 “Assistant Store Manager” position. On October 28, 2010, the court granted final approval of the
23 class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

24 c) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
25 and-hour class action against a national retailer involving allegations of misclassification of the
26 “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class
27 certification. On August 26, 2013, the court granted final approval of the class action settlement.
28 The Los Angeles County Superior Court Case Number is BC424012.

1 d) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
2 and-hour class and representative action against a national property management company
3 involving allegations of misclassification of the “Property Manager” position. On May 23, 2012,
4 the court granted final approval of the class and representative action settlement. The Los Angeles
5 County Superior Court Case Number is BC430918.

6 e) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
7 and-hour class and representative action against a bank, involving allegations of misclassification
8 of the “Assistant Branch Manager” position. On August 27, 2013, the court granted final approval
9 of the class and representative action settlement. The Kern County Superior Court Case Number
10 is S-1500-CV-273194-LHB.

11 f) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
12 and-hour class and representative action against a national wholesale distributor of plumbing and
13 builder supplies, involving allegations of misclassification of multiple salaried “manager”
14 positions. On May 22, 2014, the court granted final approval of the class and representative action
15 settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

16 g) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
17 and-hour class action involving allegations of misclassification of the “Operations Manager”
18 position. On September 16, 2014, the court granted plaintiffs’ motion for class certification. The
19 Los Angeles County Superior Court Case Number is BC478769.

20 h) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
21 and-hour class and representative action against a national retailer of household items, on behalf
22 of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of
23 the class and representative action settlement. The San Francisco County Superior Court Case
24 Number is CGC-13-532344.

25 i) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
26 and-hour class action involving allegations of misclassification of the salaried residential
27 “Property Manager” position. On September 17, 2015, the court granted plaintiffs’ motion for
28 class certification. The Los Angeles County Superior Court Case Number is BC474784.

1 j) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
2 and-hour class and representative action against a national retailer of upscale hardware and home
3 furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final
4 approval of the class and representative action settlement. The Los Angeles County Superior
5 Court Case Number is JCCP4794.

6 k) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
7 and-hour class and representative action against a national retailer of apparel and fashion
8 accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final
9 approval of the class and representative action settlement. The Los Angeles County Superior
10 Court Case Number is BC488069.

11 l) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
12 and-hour class action against a national retailer of apparel, accessories, and home products,
13 involving allegations of misclassification of the “Department Manager” position. On August 12,
14 2016, the court granted plaintiffs’ motion for class certification in part and certified a class. The
15 Alameda County Superior Court Case Number is RG13680477.

16 m) Our firm represented the plaintiff in a representative action under the Private
17 Attorneys General Act, against a real estate and property management company, on behalf of non-
18 exempt employees. On November 4, 2016, the Court granted approval of the settlement. The
19 Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

20 n) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
21 and-hour class action against a full-service bank, on behalf of non-exempt employees. On
22 November 18, 2016, the court granted final approval of the class action settlement. The San
23 Francisco County Superior Court Case Number is CJC-13-004839.

24 o) Our firm represented the plaintiffs in a wage-and-hour class and
25 representative action against a foodservice distributor, on behalf of non-exempt employees. On
26 January 26, 2017, the court granted final approval of the class and representative action settlement.
27 The San Bernardino County Superior Court Case Number is CIVDS1507260.
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1 p) Our firm, on behalf of the plaintiff and respondent in a PAGA representative
2 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the
3 employer's motion to compel arbitration, which resulted in a published opinion by the California
4 Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply*, 9
5 Cal.App.5th 439 (Cal. App. 4th Dist., Mar. 7, 2017), review denied, cert. denied (U.S. Supreme
6 Court Docket No. 17-254).

7 q) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
8 and-hour class and representative action against a consumer packaging company, on behalf of non-
9 exempt employees. On March 10, 2017, the court granted final approval of the class and
10 representative action settlement. The Los Angeles County Superior Court Case Number is
11 BC590429.

12 r) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
13 and-hour class action and representative action against a manufacturer of food service industry
14 supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final approval
15 of the class and representative action settlement. The Orange County Superior Court Case Number
16 is 30-2015-00810013-CU-OE-CXC.

17 s) Our firm represented the plaintiff in a wage-and-hour class and
18 representative action against a property management company, on behalf of non-exempt
19 employees. On June 14, 2017, the court granted final approval of the class and representative
20 action settlement. The Los Angeles County Superior Court Case Number is BC586234.

21 t) Our firm represented the plaintiffs in a wage-and-hour class action and
22 representative action against a food company on behalf of non-exempt employees. On June 30,
23 2017, the court granted final approval of the class and representative action settlement. The
24 Sacramento County Superior Court Case Number is 34-2015-00175871.

25 u) Our firm represented the plaintiffs in a wage-and-hour class action and
26 representative action against a chocolate company on behalf of non-exempt employees. On July
27 19, 2017, the court granted final approval of the class and representative action settlement. The
28 Alameda County Superior Court Case Number is RG15764300.

1 v) Our firm represented the plaintiffs in a wage-and-hour class action and
2 representative action against a manufacturer of plastic containers on behalf of non-exempt
3 employees. On October 31, 2017, the court granted final approval of the class and representative
4 action settlement. The Los Angeles County Superior Court Case Number is BC577233.

5 w) Our firm, in association with co-counsel, represented the plaintiff in a wage-
6 and-hour class action against a container manufacturer, on behalf of non-exempt employees. On
7 October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare
8 County Superior Court Case Number is VCU264528.

9 x) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
10 and-hour class action and representative action against a property management company on behalf
11 of hourly-paid and non-exempt employees. On January 4, 2018, the court entered an order
12 granting final approval of the class and representative action settlement. The Los Angeles County
13 Superior Court Case Number is JCCP 4819.

14 y) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
15 and-hour class action and representative action against a global provider of flexible office space
16 solutions. On February 15, 2018, the court entered an order granting final approval of the class
17 and representative action settlement. The Los Angeles County Superior Court Case Number is
18 BC498401.

19 z) Our firm represented the plaintiffs in a wage-and-hour class and
20 representative action against a behavioral health service provider on behalf of non-exempt
21 employees. On November 13, 2018, the court granted final approval of the class and
22 representative action settlement. The Alameda County Superior Court Case Number is
23 RG16811450.

24 aa) Our firm, in association with co-counsel, represented the plaintiff in a
25 representative action under the Private Attorneys General Act, against a global provider of
26 products and services to the energy industry, on behalf of hourly-paid and non-exempt employees.
27 On November 19, 2018, the Court granted approval of the settlement. The Kern County Superior
28 Court Case Number is S-1500-CV-280215-SDC.

1 bb) Our firm represented the plaintiff in a wage-and-hour class action against a
2 parking company on behalf of non-exempt employees. On September 3, 2019, the court granted
3 the plaintiff's motion for class certification and certified a class. The Santa Clara County Superior
4 Court Case Number is 16CV292208 and the Judicial Council Coordination Proceeding Number is
5 JCCP 4886.

6 cc) Our firm, in association with co-counsel, on behalf of the plaintiff and
7 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
8 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
9 notable decision from the California Supreme Court clarifying the law and finding, in part, that
10 employer arbitration agreements are unenforceable where they block a PAGA claim from
11 proceeding, *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019).

12 dd) Our firm represented the plaintiffs in a wage-and-hour class and
13 representative action against a bank on behalf of non-exempt employees. On September 27, 2019,
14 the court granted the plaintiffs' motion for class certification in part and certified a class. The
15 Alameda County Superior Court Case Number is RG15757606 and the Judicial Council
16 Coordination Proceeding Number is JCCP 4921.

17 ee) Our firm represented the plaintiffs in a wage-and-hour class and
18 representative action against a national retailer of apparel and fashion accessories, on behalf of
19 non-exempt employees. On October 9, 2019, the court granted the plaintiffs' motion for class
20 certification in part and certified a class. The Sacramento County Superior Court Case Number is
21 34-2015-00175330-CU-OE-GDS.

22 ff) Our firm represented the plaintiff in a wage-and-hour class and
23 representative action against a medical equipment supplier on behalf of non-exempt employees.
24 On February 13, 2020, the court granted the plaintiff's motion for class certification and certified
25 a class. The San Bernardino County Superior Court Case Number is CIVDS1505744.

26 gg) Our firm, in association with co-counsel, represented the plaintiff in a wage-
27 and-hour class and PAGA representative action against a large national drug testing laboratory on
28 behalf of non-exempt employees. On February 21, 2020, the court granted the plaintiff's motion

1 for class certification and certified a class. The San Diego County Superior Court Case Number
2 is 37-2018-00019611-CU-OE-CTL.

3 hh) Our firm represented the plaintiffs in a wage-and-hour class and
4 representative action against a national retailer of sportswear, footwear, and camping equipment
5 on behalf of non-exempt employees. On March 16, 2020, the court granted in part the plaintiff's
6 motion for class certification and certified a class. The Riverside County Superior Court Case
7 Number is RICJCCP4930.

8 ii) Our firm represented the plaintiffs in a wage-and-hour class and PAGA
9 representative action against a plastic packaging company on behalf of non-exempt employees.
10 On June 8, 2020, the court granted in part the plaintiffs' motion for class certification and certified
11 a class. The San Bernardino County Superior Court Case Number is CIVDS1507361.

12 jj) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
13 and-hour class action against manufacturer and supplier of power products and services on behalf
14 of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion for
15 class certification and certified a class. The San Diego County Superior Court Case Number is
16 37-2015-00025968-CU-OE-CTL.

17 **PRELIMINARY APPROVAL**

18 8. Marked and attached hereto as "**EXHIBIT 1**" is the Settlement Agreement and
19 Stipulation to Resolve Class Action and PAGA Claims ("Settlement," "Agreement," or
20 "Settlement Agreement") entered into by and between Plaintiff Monica Montalbo ("Plaintiff"),
21 individually and on behalf of all others similarly situated and other aggrieved employees, on the
22 one hand, and Defendant HM.Clause, Inc. ("Defendant"), on the other hand (collectively, the
23 "Parties"). The Parties and their counsel have approved the proposed Notice of Proposed Class
24 Action Settlement ("Class Notice"), which is attached to the Settlement Agreement as "Exhibit
25 A" and respectfully request that the Court approve it as well.

26 9. Based on information provided by Defendant, as of June 10, 2021, the Class is
27 estimated to consist of approximately three hundred and four (304) individuals.

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1 10. The effectiveness of Lawyers *for* Justice, PC (“Class Counsel”) in prosecuting this
2 matter has translated into tangible monetary benefits for the Class Members in the following
3 respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting
4 additional years for the same, or possibly worse, result; (2) a guaranteed result that compares
5 favorably with other similar class action settlements of this type given the strengths and
6 weaknesses of the case; and (3) significant savings in Class Counsel’s fees and/or costs that would
7 have only increased significantly had the case progressed through certification, trial, and/or
8 appeals.

9 11. Class Counsel has litigated the case since its commencement in 2020 and was
10 actively preparing the matter for class certification and trial. The Parties have engaged in extensive
11 settlement negotiations and participated in a formal, full-day mediation conducted by Lyn S.
12 Frank, Esq., a well-respected mediator experienced in mediating complex labor and employment
13 matters. Prior to and during the mediation and settlement discussions, the Parties exchanged class
14 information and engaged in an extensive discussion regarding their evaluations of the case and
15 various aspects of the case, including but not limited to, the risks and delays of further litigation,
16 the risks to the Parties of proceeding with class certification and/or representative adjudication,
17 the law relating to off-the-clock theory, meal and rest periods, PAGA representative actions, and
18 wage-and-hour enforcement, as well as the evidence produced and analyzed, and the possibility
19 of appeals, among other things. During all settlement discussions, the Parties conducted their
20 negotiations at arm’s length in an adversarial position. Arriving at a settlement that was acceptable
21 to all Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on
22 the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to
23 obtain class certification and prevail at trial. After conducting investigations, formal and informal
24 discovery, and exchange of information, extensive settlement negotiations, and with the aid of the
25 mediator’s evaluation, the Parties have agreed that the matter is well-suited for settlement given
26 the legal issues relating to Plaintiff’s principal claims, as well as the costs and risks to both sides
27 that would attend further litigation. The Settlement is a fair, reasonable, and adequate resolution
28 of the Released Claims of Plaintiff, Participating Class Members and Aggrieved Employees,

1 against the Released Parties.

2 12. The Parties used the pre-mediation time to investigate the veracity, strength, and
3 scope of the claims, and Class Counsel was preparing the action for class certification and trial.
4 Prior to engaging in mediation, Class Counsel conducted significant investigation and formal and
5 informal discovery regarding the facts of the case, including and not limited to, the exchange,
6 review, and analysis of thousands of pages of documents and data produced by Defendant. The
7 volume of data and documents that Class Counsel reviewed and analyzed included and was not
8 limited to: Plaintiff's employment records, a detailed sampling of Class Members' time and pay
9 data, Defendant's Employee Handbook, Defendant's operations and employment practices, forms
10 such as Meal Break Waivers, procedures (including, but not limited to, Meal Break Violations &
11 Penalties for Non-Exempt Employees), and policies (including, but not limited to, Time Keeping
12 Policy and Meal Period and Rest Break policy), among other information and documents. Class
13 Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential
14 witnesses. Class Counsel propounded multiple sets of formal written discovery requests on
15 Defendant and noticed the depositions of Defendant's Person Most Knowledgeable designees
16 regarding organizational structure, job duties, and affirmative defenses. Counsel for the Parties
17 also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings,
18 discovery, and the production of documents and data prior to the mediation. Class Counsel also
19 drafted Plaintiff's mediation brief and prepared for and attended court proceedings, settlement
20 negotiations, and the mediation, among other tasks.

21 13. Counsel for the Parties have also invested time researching and investigating the
22 applicable law, which is constantly evolving as it relates to certification, representative PAGA
23 claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims
24 and damages, and Defendant's defenses thereto, as well as facts discovered. Based on our analysis,
25 I submit that the result achieved in this litigation is fair, adequate, and reasonable.

26 14. The Settlement provides for a Gross Settlement Amount of nine hundred fifty
27 thousand dollars and no cents (\$950,000.00). The Net Settlement Amount is the Gross Settlement
28 Amount less the following amounts subject to approval by the Court: Attorneys' Fees and Costs

1 to Class Counsel, Enhancement Award to Plaintiff, Settlement Administration Costs to Settlement
2 Administrator, and PAGA Payment of which 75% will be distributed to the California Labor and
3 Workforce Development Agency (“LWDA”) and 25% will be distributed to Aggrieved
4 Employees. Assuming that the amounts allocated under the Settlement toward these payments are
5 awarded by the Court, the Net Settlement Amount is currently estimated to be four hundred sixty-
6 eight thousand dollars and no cents (\$468,000.00). The Gross Settlement Amount will be fully
7 distributed in accordance with the terms of the Settlement and there is no reversion to Defendant.

8 15. The Parties have agreed to retain ILYM Group, Inc. (“ILYM” or “Settlement
9 Administrator”) to handle the notice and settlement administration. The Parties respectfully
10 request that the Court appoint ILYM to handle these procedures and serve as the Settlement
11 Administrator. Defendant will provide ILYM with a list of Class Members that identifies each
12 Class Member by full name, Social Security Number, and last-known address; and provides the
13 number of Workweeks worked by each Class Member during the Class Period and the number of
14 PAGA Workweeks worked by each Aggrieved Employee during the PAGA Period (collectively
15 referred to as the “Class List”), and ILYM will calculate each Participating Class Member’s
16 estimated share of the Net Settlement Amount (“Individual Settlement Payment”) and each
17 Aggrieved Employees estimated share of the PAGA Payment minus the LWDA Payment
18 (“Individual PAGA Payment”). ILYM will also receive requests for exclusion from the
19 Settlement, objections to the Settlement, and disputes regarding Workweeks and PAGA
20 Workweeks; provide necessary reports and declarations; calculate, subtract, and transmit
21 necessary taxes and withholdings; prepare and submit informational and other tax filings and
22 documents; issue and transmit all payments provided for by the Settlement, including and not
23 limited to, mailing Individual Settlement Payment and Individual PAGA Payment checks to the
24 Participating Class Members and Aggrieved Employees; and perform any other usual and
25 customary duties for administering a class action settlement. Settlement Administration Costs are
26 currently estimated not to exceed twelve thousand dollars and no cents (\$12,000.00) and will be
27 paid out of the Gross Settlement Amount, subject to approval of the Court.

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1 16. Based on investigation and information discovered, Class Counsel believes that
2 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
3 that Defendant, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay
4 overtime and minimum wages and associated premium pay, failed to provide compliant meal and
5 rest periods and to pay associated premium pay, failed to timely pay wages during employment
6 and upon termination of employment, failed to provide compliant wage statements, failed to
7 maintain requisite payroll records, and failed to reimburse necessary business expenses, and
8 thereby engaged in unfair business practices and conduct giving rise to penalties recoverable under
9 the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*). Plaintiff
10 also asserted that Class Members were expected to perform similar job duties and were subject to
11 the same or similar operations and employment policies, practices, and procedures. Additionally,
12 Plaintiff asserted that Defendant's recordkeeping practices with respect to Plaintiff and the Class
13 Members were substantially the same during the time period at issue. As a result, Plaintiff claims
14 that the Class Members, were uniformly not paid all of the compensation that was owed to them
15 by Defendant since October 13, 2016. Thus, in Class Counsel's view, it is clear that the outcome
16 of this litigation would be determined by Defendant's uniform operations and employment
17 practices, policies, and procedures that Plaintiff alleges applied across its non-exempt retail
18 employees in California during the Class Period.

19 17. Class Counsel is aware of the defenses and position of Defendant, but believes that
20 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff has also taken
21 into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
22 delays inherent in such litigation, including those involved in class certification and/or
23 representative adjudication. Plaintiff further recognizes the burdens of proof necessary to establish
24 liability for the claims asserted in the lawsuit, Defendant's defenses, and the difficulties in
25 establishing entitlement to monetary recovery. Plaintiff has also considered the Parties' settlement
26 discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in
27 complex labor and employment matters.

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1 18. Defendant, on the other hand, has denied and continues to deny any liability and
2 wrongdoing of any kind associated with the claims alleged in the lawsuits, and further denies that
3 the lawsuits are appropriate for class treatment or representative adjudication for any purpose other
4 than this Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides
5 have also had the opportunity to interview witnesses and review documents and information
6 relating to Plaintiff's and Class Members' employment with Defendant, and Defendant's
7 operations and employment policies, practices, and procedures. The Parties also reviewed and
8 analyzed thousands of pages of documents and data, including but not limited to a detailed
9 sampling of Class Members' time and pay information, to determine the potential value and
10 strength of the claims. The available information enabled Class Counsel to estimate the potential
11 claims of the Class and prepare damages/valuation models. Accordingly, the Parties have
12 conducted adequate investigation and discovery to be sufficiently informed of the nature and
13 extent of the Class Members' claims, and to enable both sides to fully evaluate the Settlement for
14 its fairness, adequacy, and reasonableness. The Parties have agreed that the matter is well-suited
15 for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and
16 risks to both sides that would attend further litigation. The Settlement takes into account the
17 strengths and weaknesses of each side's position and the uncertainty of how the case might have
18 concluded at certification, trial, and/or appeals.

19 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
20 in an amount of up to thirty-five percent (35%) of the Gross Settlement Amount
21 (i.e., \$332,500.00) and expenses and costs in an amount not to exceed thirty thousand dollars and
22 no cents (\$30,000.00), which will be paid out of the Gross Settlement Amount, subject to approval
23 by the Court. It should be noted that Class Counsel has borne all of the risks and costs of litigation
24 and will not receive any compensation until recovery is obtained.

25 20. The Settlement Agreement provides for payment of up to seven thousand five
26 hundred dollars and no cents (\$7,500.00) to Plaintiff as an Enhancement Award, to be paid out of
27 the Gross Settlement Amount subject to approval by the Court. Plaintiff spent considerable time
28 and effort to produce relevant documents and past employment records and to provide the facts

1 and evidence necessary to attempt to prove the allegations. Plaintiff was available whenever Class
2 Counsel needed her and actively tried to obtain information that would benefit the Class.
3 Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award, in addition
4 to her Individual Settlement Payment and Individual PAGA Payment, for her services on behalf
5 of the Class.

6 21. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is
7 in the best interest of the Class. Class Counsel further submits that the Settlement is within an
8 acceptable range of recovery for this type of litigation given the strengths and weaknesses of the
9 case, the inherent costs and risks of further litigation, and the costs and risks associated with class
10 certification, representative adjudication, trial, and/or appeals.

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

13 Executed on this 21 day of September 2021, at Glendale, California.

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15 Edwin Aiwarzian
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