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ARTURO VAZQUEZ HERNANDEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

ARTURO VAZQUEZ HERNANDEZ, an
individual, for the real party in interest, the State
of California

Plaintiff,

v.

EAGLE PAVING COMPANY, INC.; and
DOES 1 through 50,

Defendants.

Case No. 37-2021-00003255-CU-OE-CTL

Judge: Hon. James A Mangione
Dept.: C-75

**DECLARATION OF TAMIM JAMI IN
SUPPORT OF PLAINTIFF'S NOTICE OF
MOTION AND MOTION FOR APPROVAL
OF PAGA SETTLEMENT**

Judge: Hon. James A Mangione
Dept.: C-75
Date: January 14, 2022
Time: 9:00 a.m.

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1 *Gamberg v. Five Guys Operations LLC*, San Diego Superior Court Case No. 37-2017-00040515-
2 CU-OE-CTL; *Lizarraga v. Europa Auto Imports Inc.*, San Diego Superior Court Case No. 37-2018-
3 00058131-CU-OE-CTL; *Ortiz v. Caraustar Industries, Inc.*, San Bernardino Superior Court Case
4 No. CIV-DS1910308; *Campbell v. Fortunebuilders Inc.*, San Diego Superior Court Case No. 37-
5 2019-00035583-CU-OE-CTL.

6 9. Additionally, I was appointed class counsel in federal court on a contested motion
7 for class certification. (See *Magallon v. Vital Recovery Services, LLC*. (S.D.Cal. Mar.15, 2018)
8 2018 WL 1336291, Case No. 16-CV-02971-JAH-BLM.) The United States District Court for the
9 Southern District of California in *Magallon* recently granted final approval of the class action
10 settlement.

11 10. Prior to obtaining my legal education, I received my Bachelor of Science in
12 Engineering, with distinctions, from San Diego State University.

13 11. In pursuing my Engineering degree, I took numerous courses in Microsoft Excel
14 and used Microsoft Excel in conjunction with arithmetic as a routine part of my curricula. I have
15 continued using Microsoft Excel in my legal practice to analyze wage and hour records and compile
16 data. As a result, I am proficient in using Microsoft Excel functions to organize, compile, and
17 ascertain data, statistics, and systemic patterns.

18 12. My hourly rate in employment cases, including this case, is \$425.00. My rate of
19 \$425.00 per hour was approved earlier this year in *White v. Wal-Mart Inc.*, San Diego Superior
20 Court Case No. 37-2018-00059628-CU-OE-CTL. The rates charged by knowledgeable and
21 experienced attorneys in the field of employment law in San Diego County, generally range from
22 approximately \$400 per hour at the low end of the scale to approximately \$895 per hour at the high
23 end of the scale for an attorney of my skill and experience. My hourly rate of \$425.00 is at the low
24 end of the prevailing hourly rates and consistent with noted sources, such as the Westlaw Court
25 Express' Legal Billing Report, Volume 17, Number 3, California Region for Dec. 2015, indicating
26 that the law firms' ordinary hourly rates for attorneys with 4 to 9 years' experience are anywhere
27 between \$390 to \$825. A true and correct copy of the Report is attached to Mr. Mashiri's
28 declaration as **Exhibit 1**. My rate is also lower than the 2020-2021 Laffey Matrix, which indicates

1 an hourly rate of \$465 for attorneys with 4 to 7 years' of experience. A true and correct copy of the
2 Laffey Matrix is attached to Mr. Mashiri's declaration as **Exhibit 2**. Since most plaintiffs cannot
3 pay for my services on an hourly basis, I represent virtually all of my wage and hour employment
4 clients (plaintiffs) on a contingency fee basis. Pursuant to this arrangement, I am not compensated
5 for my time unless and until I prevail at trial or successfully settle my client's case. Because I am
6 taking the risk that I will not be reimbursed for my time and expenses incurred unless my client
7 settles or wins his or her case, I generally cannot afford to represent clients for less than my hourly
8 rate.

9 13. I, together with Mr. Mashiri, undertook the representation of Plaintiff in this
10 litigation at great financial risk, because I believed that Plaintiff, and other aggrieved employees,
11 had been wronged and their rights under the wage and hour laws of this state had been violated.

12 14. I spent in excess of 180 hours on this case, which includes, but is not limited to,
13 client intake, preparing and requesting Plaintiff's employment records, reviewing and analyzing
14 each plaintiff's payroll records and employment file, drafting the PAGA notice to the LWDA,
15 preparing and reviewing the pleadings, meetings and conference calls with my co-counsel Mr.
16 Mashiri regarding the factual and legal issues in this case, email exchanges and conference calls
17 with defense counsel, conducting legal research as to the claims in dispute, assisting in drafting (but
18 not serving) written discovery, drafting the brief for the informal discovery conference, preparing
19 for and attending mediation including drafting the mediation brief, assisting in revising and
20 reviewing the PAGA settlement agreement, assisting Mr. Mashiri in drafting Plaintiff's motion for
21 PAGA settlement approval and all supporting documents, among other tasks. The time I spent on
22 this case was necessary—separate and apart—from the time Mr. Mashiri spent on this case.

23 15. On November 18, 2020, after drafting the statutorily required notice, my office sent
24 the PAGA Notice to the California Labor and Workforce Development Agency ("LWDA") and
25 Defendant, declaring Plaintiff's intent to proceed with an enforcement action under PAGA as to the
26 enumerated Labor Code claims on behalf of himself and all other aggrieved employees against
27 Defendant.

28 16. Defendant is a paving contractor based in San Diego, California. Plaintiff is an ex-

1 employee who worked for Defendant from October of 2019 to November of 2020.

2 17. My office requested Plaintiff's employment/personnel file from Defendant. In
3 response, Defendant produced records including, among other things, wage statements and time
4 records for Plaintiff. Mr. Mashiri and I, reviewed these documents and conducted a detailed
5 analysis of Plaintiff's wage and hour claims.

6 18. On January 22, 2021, after my office drafted the complaint, Plaintiff filed his
7 complaint under the PAGA in this matter. The complaint alleged representative claims for civil
8 penalties, only, under the PAGA for (1) violation of Labor Code sections 1720 et seq., 1771, 1774,
9 1777.5, 1776, 1815; (2) violation of Labor Code sections 510 and 1194; (3) violation of Labor Code
10 section 226(a)(1); (4) violation of Labor Code section 226(a)(5); (5) violation of Labor Code
11 section 226(a)(2); (6) violation of Labor Code section 226(a)(9); (7) violation of Labor Code
12 section 226(a); (8) violation of Labor Code sections 512, 226.7 and the IWC Wage Order; (9)
13 violation of Labor Code section 226.7 and the IWC Wage Order; (10) violation of Labor Code
14 section 246; (11) violation of Labor Code sections 233 and 234; (12) violation of Labor Code
15 section 227.3; (13) violation of Labor Code section 204; (14) violation of Labor Code sections 201,
16 202, and 203; and (15) violation of Labor Code sections 226(b), 1198.5, and 432.

17 19. After service of the complaint, my office engaged in several discussions with
18 defense counsel regarding the substantive claims, including Plaintiff's allegations and anticipated
19 defenses, in this case. The Parties ultimately agreed to attend a mediation. The Parties filed a
20 stipulated protective order with the Court and Defendant agreed to produce in addition to the
21 relevant personnel file and applicable employment policies for Plaintiff, a sample of putative
22 aggrieved employee time and payroll records (in an appropriately redacted form) which consisted
23 of 21 randomly-selected employees (plus Plaintiff) (which constituted over 20% of the approximate
24 total population of putative aggrieved employees employed during the PAGA period known at that
25 time) ("Sample Set") prior to mediation.

26 20. On September 24, 2021, the Parties attended a full day mediation with Mr. Tripper
27 Ortman, Esq., a well-regarded mediator of complex class and representative wage and hour actions.

28 21. The Parties were able to resolve this matter with the assistance of Mr. Ortman and

1 ultimately reached a proposed settlement in the gross amount of \$325,000.00.

2 22. Prior to negotiating a settlement at the mediation, My co-counsel Mr. Mashiri and I,
3 conducted a thorough investigation into the facts and claims in this case and conducted extensive
4 legal research as to the claims and applicable laws. I had several discussions with defense counsel
5 regarding the substantive claims alleged, including Plaintiff's allegations and anticipated defenses,
6 in this case.

7 23. Additionally, prior to mediation, Defendant provided the aforementioned Sample
8 Set of data for randomly selected putative aggrieved employees. The time and payroll records were
9 produced, in part, in native format; however, based on technical limitations for the company, many
10 of the documents could only be produced in PDF format. The total document exchange consisted
11 of thousands of documents, which my office and Mr. Mashiri's office had to go through manually
12 in detail in order to analyze, assess, audit, and evaluate for purposes of the mediation. Using the
13 information in the native and PDF documents, I created an Excel spreadsheet outlining the systemic
14 violations, resulting claims, and civil penalty exposure in preparation of the Parties' September 24,
15 2021 mediation. Mr. Mashiri and I, also prepared and provided a detailed mediation brief to Mr.
16 Ortman's office.

17 24. The Parties subsequently negotiated and signed a long-form settlement agreement
18 ("Settlement Agreement") outlining the material terms of the Parties' settlement. My office
19 provided a copy of the settlement agreement to the LWDA on November 9, 2021.

20 25. The proposed gross settlement amount is \$325,000.00. The proposed PAGA civil
21 penalties are \$204,644.10 of which 75% (or \$153,483.07) will be paid to the LWDA and the
22 remaining 25% (or \$51,161.03) will be allocated to the PAGA Aggrieved Employees. Of the
23 remaining balance, \$10,130.90 will be allocated towards litigation costs incurred in this case,
24 \$2,000 will be allocated towards the Settlement Administrator's costs, and the remaining amount of
25 \$108,225 will be allocated towards Plaintiff's attorneys' fees incurred as a result of the PAGA
26 lawsuit.

27 26. Based on my professional experience in handling wage and hour PAGA
28 representative and class action matters, the circumstances of this case, and the tremendous work

1 performed, I find the proposed PAGA settlement to be an above average result and to be a fair,
2 reasonable, and adequate.

3 27. I have incurred the following costs:

4 Complaint	\$447.00
5 Mediation Fee	\$9,000.00
6 Motion Filing and Courtesy Copy costs	\$200.00
7 CMC Filing Fee	\$12.00
8 Investigator Fee	\$100.00
9 File Set Up Fee & Materials	\$75.00
LWDA Filing Fee	\$75.00
Certified Mail & Postage	\$4.10
Copy and Printing	\$50.00

10 **Total Costs: \$9,963.10**

11 28. My office charges an initial set up fee of \$75.00 for every case we sign up.

12 29. The costs spent for copies and printing is approximately \$50.00. My office printed
13 approximately 500 pages at \$.10 per page. The pages we printed included but were not limited to:
14 Plaintiff's employment records, payroll records, settlement briefs and supporting exhibits and
15 records, settlement agreements and supporting exhibits, and Motion for PAGA settlement approval.

16 30. The Parties' settlement agreement provides that we may recover costs expended on
17 this case. My office incurred \$9,963.10 in costs and Mr. Mashiri's office incurred \$167.80 in costs.
18 The total cost incurred in this case are \$10,130.90. The costs incurred are ordinary and necessary.

19 Except as to those matters made upon information and belief, I declare under penalty of
20 perjury under the laws of the State of California that the foregoing is true and correct.

21 Executed on 12/20/2021 at San Diego, California.

22
23 
24 TAMIM JAMI, DECLARANT