

1 ZACHARY CROSNER (SBN 272295)
2 MICHAEL CROSNER (SBN 41294)
3 CROSNER LEGAL, P.C.
4 9440 Santa Monica Blvd., Suite 301
5 Beverly Hills, CA 90210
6 Tel. (866) 276-7637
7 Fac. (818) 700-9973

8 Counsel for Plaintiff Patricia Benton

9
10 **SUPERIOR COURT OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SACRAMENTO**

12 PATRICIA BENTON, an individual, on
13 behalf of herself and all others similarly
14 situated and aggrieved,

15 Plaintiff,

16 v.

17 NORTHERN CALIFORNIA
18 INALLIANCE, a California domestic non-
19 profit corporation; ANDREA CROOM, an
20 individual; and DOES 1 to 100, inclusive,

21 Defendants.

CASE NO. 34-2021-00293036

Assigned for All Purposes to:
Hon. Lauri A. Damrell
Dept. 28

SUPPLEMENTAL DECLARATION OF
ZACHARY M. CROSNER IN SUPPORT OF
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

Date: May 12, 2023
Time: 9:00 a.m.
Dept.: 28

1 **SUPPLEMENTAL DECLARATION OF ZACHARY M. CROSNER**

2 I, ZACHARY M. CROSNER, Declare:

3 1. I am an attorney duly licensed to practice in California and before this
4 Court, and I am the principal of the Crosner Legal, P.C., counsel of record for plaintiff Patricia
5 Benton. I make this supplemental declaration in support of Plaintiff's Motion for Preliminary
6 Approval of Class Action Settlement. If called to testify as to the within facts, I would and could
7 competently do so.

8 2. On or about March 17, 2023, the Court issued its Minute Order on Plaintiff's
9 motion for preliminary approval of class and representative action settlement, and continued the
10 matter to May 12, 2023 for further briefing. The Court further requested certain changes to the
11 proposed Class Notice. As requested by the Court, the Parties have met and conferred regarding
12 the issues identified by the Court and revised the settlement terms and documents accordingly.

13 1. Attached hereto as Exhibit 1 is a true and correct final copy of the revised Class
14 Notice, and attached as Exhibit 2 is a true and correct redline copy of the revised Class Notice.

15 2. My office notified the Labor & Workforce Development Agency ("LWDA") of the
16 May 12 continued hearing via its electronic portal concurrently with filing this supplemental
17 declaration. A true and correct copy of the LWDA's acknowledgement of receipt is attached
18 hereto as Exhibit 3.

19 3. Having met and conferred with counsel for defendants, the estimated class size is
20 **234** individuals. Through counsel, the Parties agreed to correct the Settlement Agreement, at
21 paragraphs 4.1 and 8.1, to reflect to correct class count. A copy of the Settlement Agreement with
22 the correct numbers is attached hereto as Exhibit 4.

23 4. Having met and conferred with counsel for defendants, the correct not to exceed
24 amount for Class Counsel's litigation costs is **\$10,000.00**, and the correct amount for settlement
25 administration costs is **\$8,000.00**, as reflected in the Declaration of Michael Moore from the
26 proposed administrator, Phoenix Settlement Administrators.

27 5. With respect to the proposed attorney's fee award, my firm's lodestar through the
28 filing of this supplemental declaration is \$192,480 , based on 239.8 attorney hours through the

1 filing of these supplemental papers. Attached hereto as Exhibit 5 is a true and correct summary of
2 my firm's hours expended. In support of the lodestar calculation and fee request:

3 A. I am a 2010 graduate of University San Diego School of Law. I have nine years
4 of experience as a practicing attorney, all of which have focused on litigation of
5 employment, labor law, consumer, and class action claims. Following my
6 graduation, I immediately began working for a nationally recognized plaintiff's
7 complex litigation firm, CaseyGerry, where I had the fortune of working directly
8 with past presidents of the consumer attorneys and recipients of trial attorneys of
9 the year awards. I also worked for former CAALA and CLAY trial attorney of the
10 year recipient, attorney Conal Doyle, as his sole associate attorney. During my
11 tenure at these firms, I focused on advocating for the rights of consumers and
12 employees in class action litigation, civil rights and employment litigation,
13 catastrophic injuries, insurance bad faith and appellate litigation.

14 B. In 2013, I founded the law firm of Crosner Legal, P.C. which since its inception
15 has focused almost exclusively on wage and hour class actions and other labor
16 and employment law cases representing plaintiffs. Currently, over ninety percent
17 (90%) of my practice is dedicated exclusively to the prosecution of wage and
18 hour class actions, and my law firm is currently responsible as lead counsel or co-
19 lead counsel for prosecuting well over fifty (50) wage and hour class actions
20 and/or PAGA representative actions in both federal and state courts throughout
21 California.

22 C. I am currently an executive board member of the Wage and Hour Committee and
23 the Legislative Committee for the California Employment Lawyers Association; a
24 member of the Grassroots Advocacy Team for the National Employment Lawyers
25 Association; Wage and Hour Committee member and Class Action Committee
26 member for the National Trial Lawyers; a member of the American Association
27 for Justice; and member of the Pound Civil Justice Institute. I have also been
28 selected for 2018-20 by Super Lawyers as a "Southern California Rising Star" for

1 employment and labor law.

2 D. Michael Crosner has over 50 years of experience as a practicing litigation
3 attorney. He began his legal career as a litigation attorney at the Los Angeles City
4 Attorney's Office where he successfully tried approximately 75 cases to jury
5 verdict or judgment. Shortly thereafter, he founded Michael R. Crosner Law
6 Corporation. Throughout his years in private practice, he has handled many
7 plaintiff side complex litigation cases and arbitrations in various areas of law,
8 such as consumer advocacy, catastrophic injury, labor and employment, business
9 disputes, immigration, and criminal defense. He is presently "of counsel" to
10 Crosner Legal, P.C. where he directly and fully participates in wage and hour
11 class actions, representative actions brought under the Private Attorneys' General
12 Act of 2004 ("PAGA"), and other employment and labor law cases. In 2015, he
13 was appointed to be a Board Member of Law360's Employment Law Editorial
14 Advisory Committee. He has served as a private mediator and panel arbitrator
15 with the American Arbitration Association, and as judge pro tem.

16 E. Blake R. Jones graduated from the University of Missouri in 1996 with academic
17 honors, and graduated from Tulane Law School, magna cum laude, in 2000,
18 where he served on the Moot Court Board. Mr. Jones began working as an
19 attorney that same year for Luce, Forward, Hamilton & Scripps, LLP. He left
20 with his mentor in 2004 to open the San Diego office of Hooper, Lundy &
21 Bookman, where he became a partner in 2008. Mr. Jones joined Gordon & Rees,
22 LLP, in 2011 and served as a partner in its Employment Law practice group until
23 2020. He worked with my firm as "of counsel" from 2020-22. Mr. Jones has
24 represented both employees and employers in several hundred cases in both state
25 and federal courts, including at least a hundred wage and hour class actions and
26 Private Attorney General Representative Actions. He has obtained millions of
27 dollars for employees in these cases.
28

1 F. Jamie Serb graduated from the University of California, San Diego in 2004
2 and graduated from California Western School of Law in 2013, and has been
3 a member of the California Bar since 2013. She gained extensive experience
4 in wage and hour litigation, beginning work as a class action attorney in 2015
5 at the Mara Law Firm, PC (previously Turley & Mara Law Firm, APLC;
6 Turley Law Firm, APLC). She joined Crosner Legal on January 4, 2021 as an
7 associate attorney. She has handled wage and hour class actions and PAGA
8 lawsuits for over six (6) years and has assisted in obtaining millions of dollars
9 for employees during her years of practice.

10 G. J. Kirk Donnelly is a 1989 graduate of the College of William and Mary, and a
11 1995 graduate *cum laude* of the University of San Diego School of Law, where he
12 was selected to the Order of the Coif and the Order of Barristers. Prior to 2003, he
13 was a litigation associate with Ross Dixon & Bell, LLP (now Troutman Pepper
14 LLP), in Orange County, California, where his practice focused on complex
15 business, employment, and insurance coverage disputes. In 2003, he became
16 associated with Dostart Clapp & Coveney, LLP, then one of the premiere plaintiffs'
17 wage and hour class action firms in California. In 2008, he founded the Law
18 Offices of J. Kirk Donnelly, APC and, in January 2019, also became Of Counsel to
19 Crosner Legal, P.C. Since 2003, his practice has focused on representing plaintiffs
20 in wage and hour and consumer law matters, including both class actions and
21 individual matters. He has served as class counsel in over 30 wage and hour class
22 actions.

23 H. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
24 action settlements while serving as lead class counsel in recent years, including
25 but not limited to a \$1.9 million wage and hour class action settlement in 2015
26 (*Smith v. Lux Retail North America, Inc.*, Case No. 3:13-cv-01579-WHA (N.D.
27 Cal.)); a \$4.1 million wage and hour class action settlement in 2016 (*Aguirre v.*
28 *Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252 (Sacramento Cty.

1 Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
2 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura
3 Cty. Super. Ct.)), a \$1.8 million wage and hour class action settlement in 2018
4 (*Latham v. K.W.P.H. Enterprises, Inc. dba American Ambulance*, Case No. 17C-
5 0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and hour class action
6 settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
7 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian,*
8 *et al. v. Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego
9 Cty. Super. Ct.)), a \$1.15 million wage and hour class action settlement in 2020
10 (*Buford v. Medical Solutions LLC*, Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a
11 \$2.2 million wage and hour class action settlement in 2021 (*Ghorchian, et al. v.*
12 *West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a
13 \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
14 *Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty.
15 Super. Ct.)); a \$1 million wage and hour class action settlement in 2022 (*Duong*
16 *v. Loan Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super. Ct.)), a
17 \$1.4 million wage and hour class action settlement in 2023 in *Correa, et al. v.*
18 *FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino Cty. Super.
19 Ct.), and a \$2.38 million wage and hour class action settlement in 2023 in *Michel,*
20 *et al. v. Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty.
21 Super. Ct.)³⁷.

- 22 I. Based upon the qualifications and experience set forth above, the following
23 hourly rates are reasonable for attorneys practicing in this area of the law in
24 California: Zachary M. Crosner and Jamie Serb \$750/hour, Michael Crosner
25 \$900/hour; Blake R. Jones and J. Kirk Donnelly \$850/hr.
- 26 J. Plaintiff requests the Court apply the above hourly billing rates in this case, as these
27 rates are reasonable in the California legal market for attorneys handling wage and
28 hour class actions.

1 K. I have personal knowledge of the hourly rates charged by a number of plaintiff-side
2 wage and hour class action firms in the Bay Area, Los Angeles and San Diego
3 markets, for partner-level attorneys with experience comparable to mine and to that
4 of my colleagues. These rates have range from \$650 to \$850 per hour for calendar
5 years 2017-2021. Some examples include attorney Matthew Matern of Matern
6 Law Group in Los Angeles, with approximately 26 years of experience \$850/hour
7 (2018); Craig Ackermann of Ackermann & Tilajef, PC with approximately 25
8 years of experience \$850/hour (2021), Michael Malk of Malk APC in Los Angeles,
9 with approximately 16 years of experience \$650/hour (2018), Michael Singer and
10 Isam Khoury of Cohelan Khoury & Singer in San Diego, 35 years and 45 years of
11 experience respectively, both \$825/hour (2018), Jason Ehrlich of McCormack &
12 Ehrlich LLP in San Francisco, with approximately 17 years of experience
13 \$750/hour (2017), and James Kawahito of Kawahito Law Group in Los Angeles,
14 with approximately 16 years of experience \$750/hour (2020).

15 L. The requested rates also comport with the adjusted Laffey Matrix, which provides
16 that reasonable hourly rates for attorneys with 20+ years of experience, such as
17 Messrs. M. Crosner, Jones and Donnelly, is \$997, and a reasonable rate for an
18 attorney with 10+ years of experience, such as myself and Ms. Serb, is \$829. The
19 adjusted Laffey Matrix may be found at <http://www.laffeymatrix.com/see.html>.
20 Similarly, the December 8, 2008 article, "Billable Hours Aren't the Only Game in
21 Town Anymore," NATIONAL LAW JOURNAL, which set forth the following
22 hourly billing rates as reported by Sheppard, Mullin, Richter & Hampton, a leading
23 firm in the defense of wage-and-hour class actions that I have opposed when
24 litigating wage-and-hour class actions: Partners: \$475-\$795; Associates: 1st Year -
25 \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year
26 - \$415, 7th Year - \$435, 8th Year - \$455.36.

27 M. In addition to the current lodestar described above, we will spend additional time
28 addressing settlement administration matters, responding to class member

1 questions, preparing and filing the final approval papers, etc.

2 N. My firm has represented Plaintiff for some two years with respect to this matter and
3 has expended a significant amount of time and resources in that representation. My
4 firm agreed to litigate this case on a purely contingent basis and in so doing
5 assumed considerable risk of non-payment for its fees and costs, as discussed in
6 Plaintiff's preliminary approval motion, At final approval Plaintiff will provide the
7 Court with an updated lodestar as well as additional authority and analysis
8 supporting the fee request.

9 6. Having met and conferred with counsel for defendants, the Parties are in agreement
10 that the class notice does not need to be translated into any language other than English.

11 7. As reflected in the Court's order, prior to the final approval hearing Plaintiff
12 Benton will submit her personal declaration in support of her request for an enhancement award.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct. Executed this 19th day of April, 2023, at Los Angeles, California.

15
16 

17 _____
18 Declarant
19
20
21
22
23
24
25
26
27
28