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himself and the Conditionally Certified Class

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

STEVEN KANE, on behalf of
himself and other similarly-situated
employees,

Plaintiff,

vs.

SMITHFIELD DIRECT, LLC, a
Delaware Limited Liability
Company; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. 21-CV-04832 PA (JCx)

CLASS ACTION

**DECLARATION OF J. JASON HILL
IN SUPPORT OF PLAINTIFF'S
MOTION FOR ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
ENTERING JUDGMENT**

Date: August 1, 2022

Time: 1:30 p.m.

Judge: Percy Anderson

Ctrm.: 9A

Filed: April 12, 2021

Removed: June 14, 2021

1 I, J. Jason Hill, declare as follows:

2 1. I am a Partner with the law firm of Cohelan Khoury & Singer, co-
3 counsel of record for Plaintiff Steven Kane. I make this Declaration in support of
4 Plaintiff's Motion for Final Approval of Class Action Settlement. This
5 Declaration is based on my personal knowledge and if called to testify I could and
6 would competently testify to the matters contained in this Declaration.

7 2. I am a 1992 graduate of the University of Illinois at Urbana-
8 Champaign and hold a B.A. in Philosophy, Political Science and
9 Communications. In 1995, I received my J.D. degree from California Western
10 School of Law, where I was a member of the Law Review an International Law
11 Journal, as well as editor of the Telecommunications Law Forum. Currently, I am
12 admitted to the bar in both California and Illinois, and am a broker licensed by the
13 California Department of Real Estate. I maintain memberships not only with the
14 San Diego County Bar Association, but also the National Association of Realtors,
15 the California Association of Realtors and the San Diego Association of Realtors.

16 3. In 1981, Timothy D. Cohelan and Isam C. Khoury formed Cohelan &
17 Khoury, a Partnership of Professional Law Corporations, and within a few years
18 began to focus on class actions. In 2009, Cohelan & Khoury became Cohelan
19 Khoury & Singer. Our firm represents plaintiffs in complex, class and
20 representative action litigation, including wage and hour, labor and employment,
21 antitrust, consumer protection, construction defect and other public interest type
22 class and representative actions.

23 4. Managing Partner Michael D. Singer was admitted as a fellow to the
24 College of Labor and Employment Attorneys in 2020, and named to the Daily
25 Journal 2012, 2013, and 2018 list of Top California Labor and Employment
26 Attorneys. He, along with Isam Khoury, a founding Partner of the firm, and
27 Partner Diana M. Khoury, have also been selected by their peers based on ethics,
28 experience and reputation as Super Lawyers in Civil Litigation by the Southern

1 California Super Lawyers Magazine for the years 2012 through the present.

2 5. Cohelan Khoury & Singer has been certified by the State Bar of
3 California to provide the Mandatory Continuing Legal Education activity entitled
4 “Litigating California Class Actions” and has conducted MCLE certified seminars
5 on this topic. Senior Partner, Timothy D. Cohelan, is the author of Cohelan on
6 California Class Actions (1997-2022, updated annually), part of Thomson Reuters
7 Expert Series updated annually. Michael D. Singer is a contributing author on the
8 CEB publication California Wage and Hour Law: Compliance and Litigation
9 (2010-2022 updated annually), in which he wrote the opening chapter overview
10 on California Wage and Hour laws, including the public policy underpinnings for
11 those laws, and the Private Attorneys General Act (PAGA) Claim chapter. He is
12 also a contributing author to the CEB Practitioner (2020), including guidelines for
13 oral argument and forms for PAGA litigation. Mr. Singer has served as a
14 columnist for the California State Bar, Litigation Section on wage and hour
15 litigation and has contributed articles on wage and hour and class action issues
16 through the years to numerous California publications. Prior to COVID, he
17 typically lectured several times per year for continuing education courses on wage
18 and hour and class action issues at events in San Diego, Orange County, Los
19 Angeles, and San Francisco. For over twelve years, Mr. Singer has served as wage
20 and hour amicus co-chair and liaison for the California Employment Lawyers
21 Association, drafting, reviewing, and coordinating amicus filings on wage and
22 hour issues in the California Supreme Court and Courts of Appeal. He has been
23 engaged in the practice of labor and employment law since 2000, handling well
24 over 300 wage and hour class and PAGA actions and several individual labor
25 cases. He has litigated several types of employment actions, including complex
26 ERISA employee welfare benefit plan cases, as well as wage and hour class
27 actions before Federal and State Courts in California. In 2014, I, along with Mr.
28 Singer, tried a wage and hour class action involving claims for illegally deducted

1 wages and unreimbursed expenses. *Dilts v Penske Logistics LLC, Inc.* Mr. Singer
2 successfully appealed the trial court ruling in *Dilts* finding state laws preempted
3 by the FAAAA for truck drivers.

4 6. Mr. Singer has participated in over 50 appellate cases and argued
5 writs and appeals before several California District Courts of Appeal, arguing for
6 plaintiffs on rehearing in *Brinker International Inc. v. Superior Court* before the
7 Fourth District Court of Appeal, as well as federal appeals in the Second, Third,
8 and Ninth Circuit Courts of Appeals. In addition, Mr. Singer has drafted numerous
9 appellate briefs as the appellant, respondent, or amicus curiae in employment class
10 and individual actions. As co-Class Counsel in *Brinker Restaurant Corp. v.*
11 *Superior Court* [formerly reported at (2008)165 Cal.App.4th 25], Mr. Singer
12 argued before the Fourth District Court of Appeal in May 2008 on transfer from
13 the California Supreme Court, and co-authored the successful Petition for Review.
14 My firm has successfully tried class cases, obtained appellate reversals of class
15 certification denials (*Hicks v. Kaufman and Broad*, (2001) 89 Cal.App.4th 908),
16 and certified multiple wage and hour classes.

17 7. As a part of our overall firm philosophy lawyers perform community
18 service and pro bono work. Firm volunteer work includes service through the
19 Legal Aid at Work, San Diego Volunteer Lawyer Program, the San Diego County
20 Bar Foundation and Consumer Attorneys of San Diego. During law school,
21 Partner Jeff Geraci interned for the ACLU and Equal Rights Assistance assisting
22 on impact litigation class action lawsuits. He is a past recipient of the Wiley W.
23 Manuel Award for Pro Bono Service. Mr. Singer has served on the Legal Aid at
24 Work Board of Directors since 2011. Mr. Cohelan served as the Chair of the San
25 Diego Volunteer Lawyers Program from 2015-2018, and currently sits on the
26 Board as past Chair. He completed 24 years of volunteer judicial service as a
27 Judge Pro Tem of the San Diego Superior Court. Since admission to the California
28 Bar, Partner Diana M. Khoury has been a member of the San Diego County Bar

1 Association, Consumer Attorneys of San Diego, Consumer Attorneys of
2 California, and American Association for Justice serving and chairing various
3 committees through the years for these organizations. For six years from 2010
4 through 2015, Ms. Khoury served on the Board of Directors for Consumer
5 Attorneys of San Diego. Since 2013, Ms. Khoury actively serves on the Board of
6 Directors for the San Diego County Bar Foundation, the 501(c)(3) charitable arm
7 of the San Diego County Bar Association providing access to justice to the
8 underserved and impoverished in the San Diego County region. Our firm's recent
9 pro bono victories include a settlement which prohibits the City of San Diego
10 from targeting homeless people for illegal lodging tickets under Penal Code
11 Section 467(j). (*Spencer v. City of San Diego*, USDC Case No 04CV-2314 BEN
12 (WMC).) The *Spencer* settlement had the effect of increasing the number of
13 available shelter beds in San Diego.

14 8. Cohelan Khoury & Singer has been certified Class Counsel in the
15 following contested proceedings: *Aguilar v. Atlantic Richfield, et al.*, San Diego
16 County Superior Court Case No. 00700810; *Andino v. Kaiser Foundation*
17 *Hospitals*, Alameda County Superior Court Case No. RG11580548; *Arellano, et*
18 *al. v. Container Connection of Southern California, Inc.*, Los Angeles County
19 Superior Court Case No. BC500675; *BANK OF AMERICA WAGE AND HOUR*
20 *EMPLOYMENT PRACTICES LITIGATION*, United States District Court, District
21 of Kansas MDL Case No. 2138 (FLSA Condition Certification); *Czuchaj v.*
22 *Conair Corporation*, United States District Court, Southern District of California
23 Case No. 13CV1901; *Dilts, et al. v. Penske Logistics, L.L.C., et al.*, United States
24 District Court, Southern District of California Case No. 08CV0318; *Englert, et al.*
25 *v. AT&T Wireless Services, Inc., et al.*, Circuit Court of the Second Circuit, State
26 of Hawaii Case No. 02-1-0074; *Evans v. Washington Mutual Bank*, Orange
27 County Superior Court Case No. 02CC15415; *Filion v. Ethan Allen Retail Inc.*,
28 United States District Court, Southern District of California Case No. 05CV2340;

1 *Gerard v. Les Schwab Tire Centers of California, Inc.*, Sacramento County
2 Superior Court Case No. 2007-30000003; *Grana, et al. v. PICO Enterprises, Inc.*
3 *dba Phyle Inventory Control Specialist and PICS L.A.S.C.* Case No. BC472891;
4 *Gutierrez v. Save Mart Supermarkets* San Mateo Superior Case No. CIV530955;
5 *Wilcox v Albertsons*, San Diego County Superior Court Case No. GIC833922;
6 *Gonzalez, et al. v. Freedom Communications, Inc. d/b/a The Orange County*
7 *Register*, Orange County Superior Court Case No. 03CC08756; *Graham, et al. v.*
8 *Overland Solutions, Inc.*, United States District Court, Southern District of
9 California Case No. 10CV0672 (FLSA Conditional Certification); *Hicks v.*
10 *Kaufman and Broad Home Corp.*, Los Angeles County Superior Court Case No.
11 B198414; *Hohnbaum, et al. v. Brinker Restaurant Corporation, et al.*, San Diego
12 County Superior Court Case No. GIC834348; *KEMP, et al. v. CSEA, et al.*,
13 Circuit Court of the First Circuit, State of Hawaii Case No. 98-3815-08; *LIBERTY*
14 *MUTUAL OVERTIME CASES*, Los Angeles County Superior Court Case No.
15 JCCP 4234; *Mitchell, et al. v. Acosta, Inc., dba Acosta Sales and Marketing*
16 *Company*, United States District Court, Central District of California Case
17 No.11CV07196 (FLSA Conditional Certification); *Santana v. Rady Children's*
18 *Hospital-San Diego*, San Diego County Superior Court Case No. 37-2014-
19 00022411; *Schaffer v. Rady Children's Hospital-San Diego*, San Diego County
20 Superior Court Case No. 337-2015-00022978; *Schneider, et al. v. Catholic*
21 *Healthcare West*, San Francisco County Superior Court Case No. CGC-10-
22 506243; *Salucci v. Amada Senior Care, Inc.*, Orange County Superior Court Case
23 No. 37-2015-00778081; *Smith v. California Pizza Kitchen*, San Diego County
24 Superior Court Case No. 37-2008-00083992; STEROID HORMONE PRODUCT
25 CASES, Los Angeles County Superior Court Case No. JCCP 4363; *Stevenson*
26 *Aibangbee v. Victoria Apartments, et al.*, Los Angeles County Superior Court
27 Case No. BC299498; *Swift v. Liebert Corp.*, Orange County Superior Court Case
28 No. 00CC04588; *Sylvia, et al. v. Wells Fargo Home Mortgage, Inc.*, Orange

County Superior Court Case No. 03CC05747; *Vaquero v. Ashley Furniture Industries, Inc., et al.*, United States District Court, Central District of California Case No. 12CV8590; *Vaquero v. Stoneledge Furniture LLC*, Los Angeles County Superior Court Case No. BC522676; *Vazquez v. Kraft Heinz Foods Company*, United States District Court, Southern District of California Case No. 16-CV-02749; *Watson v. Raytheon Company*, United States District Court, Southern District of California Case No. 10CV0634; and *Weigle v. FedEx Ground Package System, Inc.*, United States District Court, Southern District of California Case No. 06CV1330, among others, as well as being appointed Class Counsel in connection with well over 200 class action settlements.

9. As Class and PAGA Representative Counsel, Cohelan Khoury & Singer has actively commenced, prosecuted and concluded numerous state and federal class and representative actions. Since 2016, Cohelan Khoury & Singer has played a central role in the resolution of over 200 such cases, including the following, which have received court approval: (a) *Arellano, et al. v. Container Connection of Southern California, Inc.*, Los Angeles County Superior Court, Case No. BC500675, Hon. Anne I. Jones; (b) *Castro v. Home Depot U.S.A., Inc.*, Los Angeles County Superior Court, Case No. BC577885, Hon. Elihu M. Berle; (c) *Czuchaj v. Conair Corporation*, United States District Court, Southern District of California, Case No. 13-CV-1901 BEN, Hon. Roger T. Benitez; (d) *Gardiner v. TSYS*, United States District Court, Central District of California, Case No. 18-cv-00415, Hon. David O. Carter; (e) *Grana v. PICO Enterprises, Inc.*, Los Angeles County Superior Court, Case No. BC472891, Hon. Stephanie M. Bowick; (f) *Gutierrez v. Save Mart Supermarkets*, San Mateo County Superior Court, Case No. CIV530955, Hon. Marie S. Weiner; (g) *Hernandez v. Workforce Enterprises WFE, Inc.*, Los Angeles County Superior Court Case No. BC590913, Hon. Elihu M. Berle; (h) *Hicks v. Poway Academy of Hair Design, Inc.*, San Diego County Superior Court, Case No. 2014-00026517, Hon. Ronald L. Styn; (i) *Hubbard v.*

1 *Caliber Home Loans, Inc.*, Orange County Superior Court, Case No. 2018-
2 01017838; (j) *Klein v. Loomis Armored US, LLC*, San Bernardino County
3 Superior Court, Case No. CIVDS1704547, Hon. David Cohn; (k) *Laureano v. The*
4 *Art of Shaving*, Los Angeles County Superior Court, Case No. BC550093, Hon.
5 Amy D. Hogue; (l) *Lopez, et al. v. Management & Training Corporation, et al.*,
6 United States District Court, Southern District of California, Case No. 17-CV-
7 010624 JM, Hon. Jeffrey T. Miller; (m) *Magdaleno v. Shelly Automotive, LLC*,
8 Orange County Superior Court Case No. 2013-0043958, Hon. Kim. G. Dunning;
9 (n) *McGrath, et al. v. Wyndham Resort Development Corporation, et al.*, United
10 States District Court, Southern District of California, Case. No. 15-CV-1631 JM,
11 Hon. Jeffrey T. Miller; (o) *Mena v. Wolfgang Puck Catering*, Los Angeles County
12 Superior Court Case No. BC582743, Hon. John Shepard Wiley, Jr.; (p) *Morales v.*
13 *The Los Angeles Country Club*, Los Angeles County Superior Court, Case No.
14 BC566493, Hon. William F. Highberger; (q) *Nijmeh v. Bon Appetit Management*
15 *Company, Inc.*, Santa Clara County Superior Court, Case No. 16CV294127, Hon.
16 Thomas E. Kuhnle; (r) *Plascencia v. Aramark Services, Inc.*, Santa Clara County
17 Superior Court, Case No. 2015-1-CV-288310, Hon. Brian C. Walsh; (s) *Plimpton*
18 *v. Gordon Trucking, Inc.*, San Bernardino County Superior Court, Case No. CIV-
19 DS-1511918, Hon. Donald Alvarez; (t) *Raya v. Amazon*, USDC, Northern District
20 of California, Case No. 15-CV-02005 MMC, Hon. Maxine M. Chesney; (u) *Rivas*
21 *v. ESA Management*, USDC, Central District of California, Case No. 14-CV-5767,
22 Hon. Dale S. Fischer; (v) *Rodriguez v Healthcare Partner Medical Group, Inc.*,
23 Los Angeles County Superior Court, Case No. BC541313, Hon. Kenneth
24 Freeman; (w) *Ryan v. Dignity Health*, Sacramento County Superior Court Case
25 No. 2013-00147371, Honorable Alan G. Perkins; (x) *Santana v. Rady Children's*
26 *Hospital-San Diego*, San Diego County Superior Court Case No. 37-2014-
27 00022411, Hon. Joel R. Wohlfeil; (y) *Schaffer v. Rady Children's Hospital-San*
28 *Diego*, San Diego County Superior Court Case No. 337-2015-00022978; Hon.

Joel R. Wohlfeil; (z) *Schneider v. Catholic Healthcare West*, San Francisco County Superior Court, Case No. CGC-10-506243, Hon. Angela Bradstreet; (aa) *Schwartz v Bank of the West*, San Francisco County Superior Court, Case No. CGC-14-538955, Hon. Harold E. Kahn; (bb) *Syed v. M.I. Swaco*, USDC, Eastern District of California, Case No. 12-CV-01718 DAD, Hon. Dale A. Drozd; (cc) *Vaquero, et al. v. Stoneledge Furniture, LLC*, Los Angeles County Superior Court Case No. BC522676, Hon. Elihu M. Berle; (dd) *Vazquez v. Kraft Heinz Foods Company*, USDC, Southern District of California Case No. 16-CV-02749, Hon. William Q. Hayes; (ee) *Walsh v. Cedars-Sinai Medical Center*, Los Angeles County Superior Court Case No. BC487290, Hon. William F. Highberger; among others.

10. Class Counsel negotiated a \$350,000, non-reversionary class action and representative action settlement (“Gross Settlement Amount,” “GSA”), which will, subject to Court approval, pay an estimated \$176,603.37 to 47 Class Members employed as Route Sales Representatives or Relief Route Sales Representatives (“RSRs”) in California at any time between April 12, 2017 and November 30, 2020.

11. The Settlement was preliminarily approved on December 29, 2021. On February 16, 2022, the Court-approved Notice Packet (consisting of the Notice of Class Action Settlement, Change of Address form, and pre-printed return envelope) was sent to Class Members informing them of their rights and benefits under the Settlement, including the estimated amount of their Settlement Payments if they did not request exclusion, and the April 18, 2022 deadline to dispute workweeks, request exclusion, or object to the Settlement. An extended deadline of May 3, 2022 was provided to Class Members whose Notice Packets were remailed to an updated mailing address.

12. Support for the Settlement is strong. Through the present, not a single Class Member objected or requested exclusion. Class Members will receive

1 payments averaging \$3,757.52, with highest payments of \$6,473.63. PAGA
2 Members will receive payments on average of \$79.79 and highest payments
3 estimated at \$158.57.

4 13. Plaintiff Steven Kane was employed by Smithfield as an RSR at
5 Smithfield's Ontario, California location for nearly five years, from November 30,
6 2015 through November 13, 2020. Plaintiff contends that, throughout the Class
7 Period, his job entailed driving, delivering and stocking products to, and taking
8 back expired products from, large commercial retailers in California such as
9 Dollar General, Big Lots, local food markets, and other chain stores.

10 14. Smithfield paid Plaintiff, and other RSRs, a base hourly rate of
11 \$10.00 to \$10.50 per hour, plus the greater of a \$425.00 commission or actual
12 commissions earned each workweek. Including these commissions, RSRs were
13 paid at least minimum wage for all hours worked.

14 15. Plaintiff alleges that during his tenure with Smithfield, there were
15 only three instances where he earned commissions from sales greater than the
16 \$425.00 minimum weekly commission. Other Class Members reported similar
17 experiences.

18 16. The proposed Class is defined as all individuals employed by
19 Smithfield in California as hourly Route Sales Representatives or Relief Route
20 Sales Representatives during the Class Period, April 12, 2017 through November
21 30, 2020. There are 47 Class Members, including Plaintiff, who worked 5,156
22 weeks during the Class Period.

23 17. A subset of the Class, PAGA Members, were employed for at least
24 some period during the March 7, 2020 through November 30, 2020 PAGA Period.

25 18. The Parties conducted significant formal written discovery prior to
26 the filing of Plaintiff's Motion for Class Certification and engaged in informal
27 discovery prior to the scheduled mediation.

28 19. On July 6, 2021, Plaintiff served Smithfield with interrogatories, to

1 which it responded on August 6, 2021. Smithfield served Plaintiff with
2 interrogatories and requests for document production on August 13, 2021, to
3 which Plaintiff responded and produced documents on September 15, 2021.

4 20. The Parties exchanged FRCP Rule 26(a) Initial Disclosure
5 Statements identifying numerous potential witnesses possessing information
6 relevant to the alleged claims on August 30, 2021. Plaintiff's disclosures included
7 147 pages of pay stubs, wage statements and IRS Form W-2 Wage and Tax
8 Statements, company handbook materials and policies, and various other
9 documents.

10 21. With respect to the discovery and release of Class Member contact
11 information to Plaintiff's Counsel, the Parties agreed upon the use of a *Belaire-*
12 *West* opt-out privacy notice. On September 27, 2021, the agreed-upon privacy
13 notice was mailed to 45 Class Members giving them until October 27, 2021 to opt
14 out of the release of their contact information. Following the close of the
15 November 3, 2021 opt out deadline, Plaintiff's Counsel was provided with the
16 contact information for Class Members.

17 22. Prior to the release of the Class' contact information, and in support
18 of Plaintiff's class certification motion, Plaintiff's Counsel conducted several
19 telephonic interviews of Class Members whose names had been obtained through
20 their own investigation. Declarations from two class members were filed in
21 support of Plaintiff's certification motion.

22 23. Smithfield's counsel deposed Plaintiff Kane on October 18, 2021.
23 On October 19, 2021, pursuant to FRCP 30(b)(6), Plaintiff's Counsel took
24 depositions of Smithfield's persons most knowledgeable: Crystal Delorey, Senior
25 Director of Payroll, and Michael Hughey, Senior Director of Operations.

26 24. On October 8, 2021, following agreement to attend mediation,
27 Smithfield informally produced 781 pages of documents that included (1)
28 relevant timekeeping and meal and rest period policies and procedures; (2) job

1 descriptions for years 2017 - 2020; (3) total number of Class Members and their
2 Work weeks during the Class Period; (4) total number of PAGA Members and
3 their Pay Periods during the PAGA period; (5) number of terminated employees;
4 and (6) hourly rates paid from April 12, 2017 to December 31, 2017 - \$10/hour;
5 and from January 1, 2018 through November 2020 - \$10.50/hour. Smithfield also
6 produced two Microsoft excel spreadsheets containing over 23,000 lines of data of
7 time punch details for Plaintiff and fourteen other randomly-selected Class
8 Members. On receipt of the data, and review of the information gathered from
9 Class Counsel's investigations and informal Class Member interviews, Plaintiff's
10 Counsel analyzed the data and calculated its assessment of Class-wide damages
11 for mediation.

12 25. On October 25, 2021, the Parties attended mediation with Deborah
13 Saxe, Esquire of JAMS, an experienced and respected wage and hour mediator in
14 Southern California. After a full day of negotiations facilitated by Ms. Saxe, the
15 Parties were not able to reach agreement, although considerable progress had been
16 made. A mediator's proposal was tendered to the Parties, which was accepted with
17 minor modifications on October 27, 2021. The Parties thereafter continued to
18 negotiate at arms'-length the balance of the terms contained in the long-form
19 Settlement Agreement preliminarily approved on December 29, 2021.

20 26. The Parties have agreed, subject to Court approval, that the Action
21 may be settled for the Gross Settlement Amount of \$350,000.00 ("GSA"), no part
22 of which may revert to Smithfield. The GSA includes (i) Class Counsel's
23 attorneys' fees up to \$116,666.00 to compensate Class Counsel for work
24 performed and remaining to be performed to secure final settlement approval, and
25 (ii) litigation expenses of \$16,293.78 (originally estimated at \$19,000.00); (iii) a
26 Class Representative Service Payment of \$10,000.00 to Plaintiff Steven Kane, for
27 acting as the sole representative for the Class, work performed, risks undertaken
28 for Smithfield's costs if the case had been lost, and the substantial benefits

1 conferred upon 46 other members of the Class; (iv) Administration expenses of
2 \$6,500.00; and (e) PAGA Payment of \$15,000.00, apportioned: 75% (\$11,250.00)
3 to the to the Labor Workforce and Development Agency (LWDA Payment), and
4 25% (\$3,750.00) to PAGA Members, distributed based on the number of Pay
5 Periods worked during the PAGA Period.

6 27. Plaintiff consented in writing to apportionment of attorneys' fees
7 awarded in the following amounts: one-third to the Davtayan Law Firm, Inc., and
8 two-thirds to Cohelan Khoury & Singer.

9 28. After all Court-approved deductions from the GSA, less the
10 Employer Tax Obligations estimated at \$8,936.85, the remaining Net Settlement
11 Amount ("NSA") of \$176,603.37 will be distributed entirely to Participating Class
12 Members based on the number of Weeks Worked during the Class Period. With
13 an aggregate 5,156 Weeks Worked, Class Members may expect to receive an
14 estimated \$34.25 for per Week Worked during the Class Period.

15 29. The method of distribution provided for by the Settlement Agreement
16 allocates funds based on each Class Member's tenure with Smithfield (i.e., using
17 the number of weeks worked during the Class Period) and does not give
18 preference to any Class Member. The information and data needed to distribute
19 the funds is readily available from Smithfield's records, and the Administrator can
20 apply the formula fairly and transparently. Settlement Payments will be allocated
21 one-third to wages, for which an IRS W-2 Form will be issued, and two-thirds to
22 interest and penalties, for which IRS 1099 Forms will be issued. Participating
23 Class Members will release the Released Parties from the Released Claims arising
24 from the factual allegations of the First Amended Complaint.

25 30. If a Class Member is also a PAGA Member, he or she will also
26 receive a portion of the \$3,750.00 PAGA Member Payment based on the number
27 of Pay Periods worked during the PAGA Period. With 875 Pay Periods worked by
28 28 PAGA Members, each may expect to receive \$4.29 per Pay Period, whether or

1 not they opt out of the Class settlement.

2 31. PAGA Members will receive an IRS Form 1099 for their portion of
3 the \$3,750.00 PAGA Payment.

4 32. Following Final Approval and the Effective Date of settlement,
5 Participating Class Members will receive their Settlement Payment checks, and
6 PAGA Members will receive a share of the \$3,750.00 PAGA Payment even if
7 they should opt-out of the Class settlement. A postcard reminding Class Members
8 to cash their checks will be mailed within 30 days of issuance of the checks, and
9 after 90 days of issuance, all uncashed checks will be voided and funds forwarded
10 to California's Controller, Unclaimed Property Division for further handling on
11 behalf of the Class Member whose check was voided.

12 33. On December 10, 2021, Plaintiff's Motion for Preliminary Approval
13 was filed and served on the LWDA the same date. The motion was noticed for
14 January 10, 2022.

15 34. On December 29, 2021, the Court issued its Order Granting
16 Plaintiff's Motion for Preliminary Approval and Conditional Certification of the
17 Class, and vacated the January 10, 2022 hearing. Having evaluated the terms of
18 the Settlement that provided for direct notice to the Class via First Class U.S.
19 Mail, and a notice plan that included the Administrator's search of the National
20 Change of Address database to update stale addresses prior to the initial mailing
21 of the Notice Packet, and skip-tracing of returned and undelivered Notice Packets
22 using the Class Member's social security number, the Court determined the
23 Settlement's "notice plan was reasonably calculated to reach the members of the
24 Class".

25 35. On February 16, 2022, the Notice of Class Action Settlement,
26 Change of Address form and pre-printed return envelope ("Notice Packets") were
27 mailed to all identified Class Members giving them through April 18, 2022 to
28 postmark and return written objections, requests for exclusion, and disputes of the

1 information on which their Settlement Payments would be calculated. An
2 extended deadline of May 3, 2022 was provided to Class Members whose Notice
3 Packets were returned as undelivered, and remailed to an updated mailing address.
4 Plaintiff filed a motion for Attorneys' Fees on April 1, 2022. No objections or
5 requests for exclusion have been received.

6 36. Nothing has changed since the Court granted preliminary approval of
7 the settlement to negate the presumption of fairness. With the Class' favorable
8 reaction to the Settlement, Class Counsel remains convinced the Settlement is in
9 the Class' best interest based on detailed knowledge of the issues presented and the
10 negotiations. The length and risks of trial and the perils of litigation that affect the
11 value of the claims were all carefully weighed. The affirmative defenses asserted
12 by Defendant, the uncertainty of obtaining and maintaining Rule 23 certification,
13 the prospect of an adverse summary judgment ruling, the difficulties of complex
14 litigation, the lengthy process of establishing damages, and the risks and delays of
15 appeals, were all carefully considered by Class Counsel in arriving at the
16 Settlement.

17 37. On the same date this motion and supporting pleadings are filed with
18 the Court, they will be served upon all interested Parties and the LWDA via its
19 website. Attached as Exhibit 1 is a true and correct copy of the LWDA
20 Confirmation of Receipt.

21 I declare under the penalty of perjury under the laws of the United States of
22 America the foregoing is true and correct and this declaration is executed June 30,
23 2022, in San Diego, California.

24
25 s/ J. Jason Hill

26 J. Jason Hill
27
28