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Attorneys for Plaintiff and the Class

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

PEDRO CORTEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

BG TRUCKING, INC., an California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 37-2021-00010743-CU-OE-CTL

[Assigned for All Purposes to Hon. Joel R.
Wohlfeil, Dept. C-73]

**DECLARATION OF KRISTEN M. AGNEW IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: November 3, 2023
Time: 9:00 a.m.
Dept.: C-73

Complaint Filed: March 10, 2021

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I, Kristen Agnew, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff Pedro Cortez (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The Joint Stipulation of Class and Representative Action Settlement (“Settlement Agreement”) was the product of negotiations between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research which they had carefully analyzed. The Parties engaged in arm’s length negotiations at mediation with a highly experienced and known wage-and-hour mediator, Michael J. Loeb, Esq.

3. Additionally, Class Counsel engaged in extensive factual investigation before settling, including exchange of formal and informal discovery before mediation. In connection with mediation, I reviewed class data pertaining to the number of employees paid of mileage/piece-rate basis, the average hourly rates of mileage/piece-rate employees, the number of pay periods worked by mileage/piece-rate employees, the number of pay periods in which mileage/piece rate employees worked a shift lasting 3.5 hours or longer, the number of mileage/piece rate employees whose employment separated during the liability period, and the number of wage statements at issue.

4. Using the data provided by Defendant, I was able to calculate a range of potential damages and penalties. I estimated that Defendant's maximum liability exposure is approximately \$493,411.20. Thus, in the present case, the Gross Settlement Amount is approximately 26.98 % of the maximum recovery of the class and representative PAGA claims.

5. I have spent significant time researching and pursuing the claims that have been alleged in this action. Based on my independent investigation and evaluation, I am of the opinion that the proposed settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, in light of all known facts and circumstances, and the expenses and risks inherent in litigation.

1 6. My qualifications are as follows: I was the 2003 recipient of the Spelman
2 Presidential Scholarship to Emory University School of Law. During law school, I was a summer
3 associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta
4 office of the Equal Employment Opportunity Commission. I received my J.D. from Emory
5 University in 2006 and was admitted to the California Bar in December 2006. Following law
6 school, I was an associate at Sonnenschein from September 2006 to May 2009.

7 7. Since 2009, my primary area of practice has been employment litigation. I have
8 practiced law at two preeminent employment defense firms. From May 2009 to June 2011, I was
9 an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then
10 senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June
11 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500
12 companies in employment litigation in both state and federal courts, as well as before
13 government agencies, including the California Department of Labor. My practice included the
14 defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair
15 Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I
16 also handled a number of wage and hour class actions.

17 8. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time
18 handling employment cases. I primarily represent employees.

19 9. I served as the lead associate on a number of wage and hour class actions,
20 including *Martha Cardenas v. Gold's Gym*, Los Angeles County Superior Court Case No.
21 BC445112; *Nathaniel Werner v. Crown Equipment Corporation*, Los Angeles County Superior
22 Court Case No. BC439428; *Christopher Williams v. Allstate Insurance Co.*, Los Angeles County
23 Superior Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles County Superior Court
24 Case No. BC464894; *Melissa Roberts v. Zale Delaware, Inc.*, Los Angeles Superior Court Case
25 No. BC523610; *Michael Oliver v. Konica Minolta Business Solutions U.S.A., Inc.*, Santa Clara
26 County Superior Court Case No. 114-CV-263183; *Tessa Hodge v. Zale Delaware, Inc., d/b/a*
27 *Piercing Pagoda*, San Bernardino Superior Court Case No CIVVS1301632; *Warren v. Paychex,*
28 *Inc.*, N.D. Cal. Case No. 3:10-cv-02006; *Tapia v. Zale Delaware Inc. et al*, S.D. Cal. Case No.

3:13-cv-01565; and *Benjamin Burgess et al v. Tesoro Refining and Marketing Company et al*, C.D. Cal. Case No. 2:10-cv-05870.

10. I have been approved as class counsel in a number of class actions by the Superior Courts of California and United States District Courts, including: *Antonio Becerra-Mata v. PSC Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030; *Andrew Vasquez v. Earthbound Farm, LLC*, San Benito County Superior Court Case No. CU-17-00171; *Francisco Pulido v. Westrock Services, Inc.*, San Benito County Superior Court Case No. CU-18-00074; *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior Court Case No. BC608609; *John Obiols v. Lockheed Martin Corporation*, Santa Clara County Superior Court Case No. 17CV314178; and *Eric Chavez v. Converse, Inc.*, N.D. Cal. Case No. 15-cv-03746-NC.

11. I also second chaired two jury trials where I represented the prevailing defendant. Both cases involved employees who brought claims against their former employers pursuant to the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al*, Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt & Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909.

12. To date, I have incurred approximately 86.70 hours in connection with the litigation of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred to date.

13. The total lodestar for my hours will be approximately \$60,690 based on an hourly rate of \$700.00 per hour. I have been approved at an hourly rate of \$700.00 per hour by multiple courts, including the following courts: *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community Hospital*, Santa Cruz Superior Court Case No. 18CV00191; *Michael Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139; *Gutierrez v. Spa Havens, LP*, San Diego Superior Court Case No. 37-2019-00057065-CU-OE-NC; *Cruzado v. Ontario T, Inc.*, San Bernardino Superior Court Case No. CIVSB2027249; *Ray v. C&W Facility Services*,

1 *Inc.*, San Bernardino Superior Court Case No. CIVSB2101321; *Alvarez v. Forterra Building*
2 *Products*, San Diego Superior Court Case No. 37-2020-00018179-CU-OE-CTL; *Dunn v.*
3 *Universal Plant Services of California, Inc.*, Solano County Superior Court Case No.
4 FCS056134, *Pulido v. Georgia-Pacific Corrugated III LLC*, Fresno Superior Court Case No.
5 18CECG00265; *In re: FPI Management Wage and Hour Cases*, Los Angeles Superior Court
6 Case No. JCCP5050; *Delgado v. Kloeckner Metals Corporation*, Los Angeles Superior Court
7 Case No. 20STCV22503; *Jackson v. Samuel, Son & Co. (USA) Inc.*, Riverside County Superior
8 Court Case No. CVRI2101679, *Blanton v. Communications Test Design, Inc.*, San Joaquin
9 Superior Court Case No. STK-CV-UOE-2021-0005136; *Diaz v. Acuity Brands Lighting, Inc.*,
10 San Bernardino Superior Court Case No. CIVDS2015583; *Flournoy v. Partners Personnel –*
11 *Management Services, LLC*, Riverside County Superior Court Case No. CVRI2102372; *Idian v.*
12 *VHSD ES INC.*, San Diego Superior Court Case No. 37-2019-00018927-CU-OE-CTL; *Miller v.*
13 *Stanbridge University*, Orange County Superior Court Case No. 30-2021-01206298-CU-OE-
14 CXC; *Romano v. SSA Terminals, LLC*, Los Angeles Superior Court Case No. 20STCV29048;
15 *Wise v. Le Petite Academy, Inc.*, San Joaquin Superior Court Case No., STK-CV-UOE-2021-
16 10561; *Chambers v. SOMACIS, Inc.*, San Diego Superior Court Case No. 37-2021-00033445-
17 CU-OE-CTL; *Johnson v. FS Palo Alto Employment, Inc.*, Santa Clara Superior Court Case No.
18 21CV389927; *Rodriguez v. U.S. Bank National Association*, Los Angeles Superior Court Case
19 No. BC617356; *Moss v. Sares Regis Operating Company, L.P.*, Orange County Superior Court
20 Case No. 30-2021-01201041-CU-OE-CXC; and *Rodriguez v. City National Bank*, Los Angeles
21 Superior Court Case No. 20STCV29761.

22 14. My office has incurred costs in the amount of \$8,442.29. The costs are all
23 litigation related costs, including filing and service fees, mediation costs, CourtCall fees, and
24 postage fees. The requested costs also encompass the additional \$500.00 fee incurred for the
25 Spanish translation of the Notice Packet. Due to the number of Spanish speaking Class Members,
26 the Parties agreed to direct Phoenix to translate and mail the Notice Packet in English. The initial
27 estimate from Phoenix did not include the cost of translation. Attached hereto as **Exhibit B** is
28 copy of the costs incurred in connection with prosecution of this lawsuit.

1 15. Concurrent with the filing of the Motion for Final Approval, my office uploaded
2 the Motion, and proposed order to the LWDA's website.

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

5 Executed on this 12th day of October 2023, at Los Angeles, California.

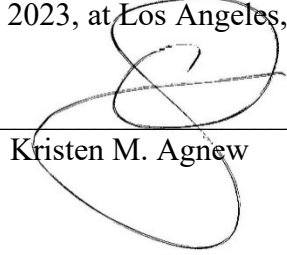
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EXHIBIT A

Kristen M. Agnew Time and Task Chart

Pedro Cortez v. BG Trucking, Inc.

Superior Court of California, County of San Diego, Case No. 37-2021-00010743-CU-OE-CTL

Hours	Description of Work
5.60	Initial research and review of background facts in preparation for filing of class action claims; review and analyze Plaintiff's time and payroll records for potential labor code violations; confer with co-counsel re theories of liability and conduct research re same; draft memorandum to file.
2.20	Review and revise class action complaint for damages; confer with co-counsel re same.
2.90	Meet and confer with defense counsel re August 13, 2021 case management conference; draft Plaintiff's case management conference statement; review Defendant's case management conference statement; prepare for and appear telephonically at case management conference.
1.00	Meet and confer with defense counsel re September 17, 2021 case management conference; draft case management conference statement; review Defendant's case management conference statement.
3.50	Confer with co-counsel re discovery strategy; draft Requests for Production of Documents (Set One) and Special Interrogatories (Set One).
7.10	Review Defendant's Responses to Requests for Production of Documents (Set One) and Responses to Special Interrogatories (Set One); meet and confer with defense counsel re discovery responses and <i>Belaire-West</i> notice; draft proposed <i>Belaire-West</i> notice; review and respond to email re same.
12.80	Confer with defense counsel regarding alleged dispositive defenses; conduct legal research re potential exemption for interstate truck drivers subject to North American Free Trade Agreement and federal preemption; draft memorandum to file re same; confer with co-counsel re potential preemption defenses.
1.30	Meet and confer with defense counsel re mediation; confer with co-counsel re mediation; draft informal discovery requests for mediation; review and respond to email re same.
2.90	Review and analyze Defendant's production of payroll data for putative class members; draft memorandum to file re analysis of data and penalties calculation; confer with co-counsel re same.
13.50	Draft mediation statement; confer with co-counsel re strategy for mediation; attend all day mediation.
8.20	Joint Stipulation of Class and Representative Action Settlement ("Settlement Agreement"); review and respond to defense counsel's proposed revisions to Settlement Agreement; finalize Settlement Agreement; confer with client re terms of Settlement.
1.60	Draft second amended class action complaint for damages and stipulation for leave to amend; review and respond to correspondence re same.
11.10	Draft motion for preliminary approval of settlement and supporting declarations; confer with co-counsel re same.

Hours	Description of Work
2.50	Prepare for and appear at June 30, 2023 hearing on motion for preliminary approval; confer with defense counsel in advance of hearing re issues identified in tentative ruling
.70	Confer with settlement administrator regarding distribution of notice of class action settlement; review and finalize notice; analyze and review reports from class administrator.
9.80	Draft and revise motion for final approval and supporting declarations; conduct legal research re same; confer with settlement administrator re declaration in support of final approval.
86.70	TOTAL HOURS

EXHIBIT B

10/11/2023
11:36 AM

DIVERSITY LAW GROUP
Slip Listing

Page 1

Selection Criteria

Slip.Classification Open
Client (hand select) Include: Cortez, Pedro v. BG
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
66132	EXP	Olympia	1	75.00	75.00
2/12/2021		Court fees			
WIP		Cortez, Pedro v. BG			
LWDA					
66484	EXP	Olympia	1	6.96	6.96
2/28/2021		Postage			
WIP		Cortez, Pedro v. BG			
Postage					
66373	EXP	Olympia	1	1489.69	1489.69
3/11/2021		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - Complaint					
66919	EXP	Erika Mejia	1	14.41	14.41
4/13/2021		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - FAC					
67167	EXP	Olympia	1	318.50	318.50
4/13/2021		Atty Service			
WIP		Cortez, Pedro v. BG			
Attorney Service - Complaint Service					
67109	EXP	Larry W. Lee	1	12.35	12.35
5/3/2021		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - POS of Summons					
68251	EXP	Erika Mejia	1	16.47	16.47
7/29/2021		Court fees			
WIP		Cortez, Pedro v. BG			
One Legal - CMS					
68411	EXP	Kristen Agnew	1	94.00	94.00
8/13/2021		Court fees			
WIP		Cortez, Pedro v. BG			
Courtcall					

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DIVERSITY LAW GROUP
Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
68445	EXP	Olympia	1	14.41	14.41
8/16/2021		Court fees			
WIP		Cortez, Pedro v. BG			
One Legal - Notice					
68689	EXP	Erika Mejia	1	15.44	15.44
9/2/2021		Court fees			
WIP		Cortez, Pedro v. BG			
One Legal - CMS					
73018	EXP	Olympia	1	5475.00	5475.00
9/16/2022		Arbitrators			
WIP		Cortez, Pedro v. BG			
JAMS Mediation					
73460	EXP	Olympia	1	37.85	37.85
9/26/2022		Delivery serv			
WIP		Cortez, Pedro v. BG			
Federal Express					
74184	EXP	Kristen Agnew	1	41.15	41.15
10/1/2022		Meals			
WIP		Cortez, Pedro v. BG			
Meal					
73879	EXP	Erika Mejia	1	38.61	38.61
12/15/2022		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - Stip					
73896	EXP	Erika Mejia	1	18.02	18.02
12/19/2022		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - NOE, SAC					
73984	EXP	Olympia	1	18.02	18.02
1/5/2023		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - Notice of Settlement					
73985	EXP	Erika Mejia	1	15.96	15.96
1/5/2023		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - Notice					
74305	EXP	Erika Mejia	1	80.25	80.25
1/31/2023		Court fees			
WIP		Cortez, Pedro v. BG			
OneLegal - Motion					

10/11/2023
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DIVERSITY LAW GROUP
Slip Listing

Page 3

Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Reference	Units DNB Time Est. Time Variance	Rate Rate Info Bill Status	Slip Value
74724 EXP 3/23/2023 WIP OneLegal - Notice of Remote Appearance	Valeria Tril Court fees Cortez, Pedro v. BG	1	16.42	16.42
74768 EXP 3/30/2023 WIP OneLegal - Notice of Entry of Order	Olympia Court fees Cortez, Pedro v. BG	1	18.48	18.48
74941 EXP 4/20/2023 WIP Online Minute Order	Erika Mejia Online researc Cortez, Pedro v. BG	1	1.00	1.00
74982 EXP 4/27/2023 WIP OneLegal - MPA	Olympia Court fees Cortez, Pedro v. BG	1	81.28	81.28
75542 EXP 6/28/2023 WIP OneLegal - Notice of Remote Appearance	Valeria Tril Court fees Cortez, Pedro v. BG	1	20.54	20.54
75602 EXP 7/7/2023 WIP Online MPA Order	Olympia Online researc Cortez, Pedro v. BG	1	4.00	4.00
75606 EXP 7/7/2023 WIP OneLegal - NOE	Olympia Court fees Cortez, Pedro v. BG	1	18.48	18.48
76372 EXP 10/11/2023 WIP Phoenix Spanish Translation	Kristen Agnew Court fees Cortez, Pedro v. BG	1	500.00	500.00
Grand Total	Billable Unbillable Total	0.00 0.00 0.00		8442.29 0.00 8442.29