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6 individually and on behalf of similarly situated employees

7
8 **SUPERIOR COURT OF CALIFORNIA**
9
10 **FOR THE COUNTY OF SACRAMENTO**

11 AHMAD ZUBAIR HUSSAINI, individually
12 and on behalf of all other similarly situated
13 employees,

14 Plaintiff,

15 vs.

16 INTEGRATED RESOURCES, INC., a
California Corporation; SIEMENS
17 MOBILITY, INC., a Delaware Corporation;
18 and DOES 1 to 100, inclusive,

19 Defendants.

Case No. 34-2021-00297152

*Assigned for All Purposes to Hon. Jill H. Talley,
Department 27*

CLASS ACTION

**DECLARATION OF JUSTIN P. RODRIGUEZ IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: March 24, 2023

Time: 9:00 a.m.

Dept.: 27

Judge: Hon. Jill H. Talley

Filed: March 23, 2021

FAC Filed: May 12, 2021

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Ahmad Zubair Hussaini (“Plaintiff”) herein. I am
4 making this declaration on behalf of the named Plaintiff, the putative class members, and in support of
5 Plaintiff’s Motion for Final Approval of Class Action and PAGA Settlement (“Motion”). A true and
6 correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 (“Agreement”) in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff’s contention
9 that Defendants Integrated Resources, Inc., and Siemens Mobility, Inc., (“Defendants”) 1) Failure to
10 Pay Overtime Wages 2) Failure to Pay Minimum Wages 3) Meal Period Violations 4) Rest Period
11 Violations 5) Wage Statement Violations 6) Waiting Time Penalties 7) Failure to Reimburse Expenses
12 8) Unfair Competition 9) Private Attorneys General Act. Plaintiff also alleged liability for civil
13 penalties under the Private Attorneys General Act (“PAGA”). These claims were based on allegations
14 that Defendants violated California law by 1) failing to properly record and pay for all hours worked
15 due to rounding and requiring off-the-clock work, 2) failing to authorize and permit timely meal
16 periods and/or a second meal period and third rest period, 3) failing to reimburse for use of cell phone
17 required to track employees time, 4) failing to reimburse travel expenses required as part of the
18 employees position, and 5) failing to pay daily overtime. The PAGA, waiting time penalty, wage
19 statement violation, and unfair competition claims also derive from these violations.

20 3. Plaintiff is the only named representative in this matter. From our initial investigations
21 of Plaintiff’s claims and documents, we believed these claims had merit and could be maintained as a
22 class action. We began our investigations on these claims in September 2020. After numerous
23 discussions and review of the documents, we filed the action on or about March 23, 2021. Plaintiff
24 exhausted administrative remedies through the Labor and Workforce Development Agency (“LWDA”)
25 prior to amending the Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on
26 March 4, 2021, setting forth the facts and theories of liability. A true and correct copy of the notice
27 filed with the LWDA is being filed with this Motion as Exhibit C. A copy of the notice was also sent
28 to Defendants via certified mail and the \$75.00 filing fee was remitted to the LWDA at that time.

1 There was no response by the LWDA regarding its intent to investigate the claims alleged in Plaintiff's
2 notice for more than 65 days. As such, Plaintiff became authorized to commence a civil action under
3 the PAGA and filed a First Amended Complaint on May 12, 2021. A true and correct copy of
4 Plaintiff's operative Complaint is filed with this Motion as Exhibit B. A copy of the Complaint was
5 uploaded to the LWDA on June 21, 2021, after we received an endorsed copy back from Court.

6 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

7 5. Defendants are represented in this matter by Constangy, Brooks, Smith & Prophete, LLP
8 and Baker & Hostetler LLP. From the beginning, Defendants have contested the merits of this case, the
9 suitability of the case for class action or representative treatment, the manageability of the case at trial,
10 and Plaintiff's ability to prove a violation in each pay period for each employee among other defenses
11 and contentions they made challenging the propriety of this action. Defendants further contended, even
12 assuming there was a finding supporting the imposition of PAGA penalties, that the Court would likely
13 exercise its discretion to substantially reduce any such penalties owed based on evidence of good faith
14 attempts to comply with California Labor Code obligations by Defendants. Notwithstanding its
15 agreement to settle this matter, Defendants believe the practices Plaintiff is contending are unlawful
16 either do not exist or, to the extent they do exist, fully comply with all state and federal employment
17 laws with respect to Plaintiff and Class Members. Also, Defendants have contended that this matter is
18 not appropriate for class certification outside of this proposed class settlement.

19 6. Based on the expected testimony from Plaintiff and Class Members, a review of
20 Defendants' policies and procedures and other documents relating to the alleged claims, information on
21 the number of Class Members, Class Members' dates of employment, and a representative sample of
22 Class Members' time and payroll data, the scope of the potential damages to Plaintiff and Class
23 Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the
24 negotiations that have taken place, I am convinced that the proposed settlement is in the best interest of
25 the class. The length and risks of trial and other normal perils of litigation that impact the value of the
26 claims were also considered and weighed in reaching the Agreement. In addition, I carefully considered
27 the prospect of potential class certification issues as well as the uncertainty of class certification, the
28 difficulties of complex litigation, and the lengthy process of establishing specific damages and various

possible delays and appeals in agreeing to the proposed settlement. I further considered the fact that penalties under the PAGA could be substantially cut at the discretion of the Court even if Plaintiff was successful on proving those claims and there was risk that a Court could find no willfulness in the failure to pay wages at separation, which would eliminate the value of the waiting time penalty claim entirely. Overall, I believe it is more beneficial to secure a guaranteed benefit to the class now rather than to proceed with litigation and potentially obtain zero funds to the class due to legal or factual issues in the case.

7. My office, including my partner, Galen T. Shimoda, my associate, Renald Konini, our paralegals, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the claims and potential damages for such claims. The parties engaged in informal discovery and exchange of documents, including a representative sampling of employee data, covering timecards, paystubs, payroll data and relevant handbooks, bulletins, and memoranda containing Defendants' policies for the entirety of the statute of limitations applicable to the alleged claims. The discovery covered all aspects of the asserted claims, including certification issues, merits issues, damages, the scope and configuration of Class Members, the content and implementation of the wage and hour policies at issue, issues relating to manageability concerns at trial, among other relevant areas. From this production we were able to determine information critical to a reliable damages analysis such as the average hourly rate, average daily hours worked, shifts eligible for meal and rest periods and the number of potential shifts that may correspond to liability under our theories of liability, the average number of workweeks and pay periods that had potential violations based on the asserted claims, the frequency with which violations occurred in a given week and/or pay period, and the number of former employees. This information allowed my office to assess both liability and damages and create an accurate damages model. Plaintiff assisted in all aspects of this litigation including providing factual information relating to Plaintiff's and Class Members' employment conditions, providing a substantial number of documents, and answering questions regarding Defendants' factual contentions in this matter. This was important because it directly related to our ability to maintain this case as a class action and our ability to obtain a favorable settlement for the class.

1 8. Throughout this litigation our office had numerous communications with Defendants’
2 Counsel discussing our respective positions. The parties engaged in mediation on April 7, 2022, using
3 an experienced mediator, Glenn E. Lerman. It was only after approximately two (2) years of extensive
4 investigation and arm’s length negotiations that the parties were able to reach a settlement. The Parties
5 were not able to settle the matter at mediation and continued to negotiate and review further data
6 regarding Class Members. After further discussions facilitated by Mr. Lerman, the Parties accepted a
7 mediator’s proposal to resolve the claims approximately four (4) months after mediation. The
8 negotiations were at all times contentious and adversarial, though still professional in nature.

9 9. In analyzing the sample data and relevant policies and comparing them against
10 Plaintiffs’ allegations and theories of liability, the following represents the potential maximum recovery
11 for each asserted claim at the time of mediation and the risks associated with each such claim:

- 12 a) Unpaid Minimum Wages: This claim is based on allegations that Defendant did not pay
13 Plaintiff for all hours worked as Defendants’ time app regularly failed to record
14 Plaintiff’s accurate hours worked. This claim is entirely comprised of liquidated
15 damages under California Labor Code section 1194.2. Plaintiff only claimed liquidated
16 damages under this cause of action to avoid double recovery for substantive wage loss
17 because Plaintiff has also assumed that all unpaid hours qualified for overtime
18 compensation. There were substantial amounts of risk with respect to certification and
19 with Plaintiff proving the merits or damages. During the course of informal discovery,
20 Plaintiff review numerous instances of payroll data where the hours recorded and paid
21 did not appear rounded at all. This raised the issue of whether the “rounding” was the
22 result of a built-in feature of an app that was used to record hours worked or the result of
23 self-reporting by class members and/or instructions by supervisors to document hours
24 worked in a rounded manner. Where the rounding was not the result of a singular app
25 and/or procedure, this raised a substantial risk for certification as the claim may require
26 reviewing the circumstances surrounding each timekeeper and why the time was
27 rounded. Additionally, there were several instances in the data where the hours paid
28 actually exceeded the hours worked on the timecards. Yet, in our calculations, we based

1 damages off the gross amount of hours unpaid, not the net amount of hours unpaid.
2 Thus, instead of an average of 1.5 hours unpaid per week, the amount would very likely
3 be lower to the extent there was a *net* amount of unpaid time during that week. Given
4 these facts, it is likely a Court would find that they supported a good faith defense,
5 which entirely wipes out a claim for liquidated damages. See Cal. Lab. Code §
6 1194.2(b). Based on the facts of this case, it is unlikely that there would be any recovery
7 under this claim.

8 b) Unpaid Overtime Wages: In part, this claim is based on the same facts as the minimum
9 wage claim described above as it relates to rounding and off the clock work, and,
10 therefore, is subject to the same risks outlined above. However, it is also based on
11 claims that Defendants simply failed and/or refused to pay for daily overtime. The
12 maximum possible damages for this claim is \$1,348,978.50. This amount does not take
13 into account any potential risks with respect to certification or Plaintiff proving the
14 merits or damages. As noted above, Plaintiff's calculations are based on being able to
15 consistently prove a net of 1.5 unpaid hours worked per week, per employee, for the
16 entirety of their employment. It is unlikely that such a finding would be made at trial for
17 the same reasons as stated above. The issue of daily overtime only occurred in sparse
18 instances over the entire class, resulting in a total of \$1,125 in total wage loss for the
19 class as a whole. The small number of instances made Defendant's arguments of
20 inadvertent error a substantial risk for derivative claims based on this theory of recovery.
21 At any rate, the amount at issue was nominal for this theory of recovery and did not
22 drive the litigation or negotiation discussions. Taking these factors into account, a more
23 realistic range of recovery for this claim is \$225,768.75 to \$585,198.75.

24 c) Meal Periods: This claim was based on allegations that Defendants' managers,
25 supervisors, regularly required Plaintiff's and Class Members to refrain from taking their
26 first meal period until after six (6) hours worked and failed to keep records of meal
27 periods actually taken. The maximum exposure for this claim is \$251,601. This amount
28 does not take into account any potential risks associated with this claim, which was

1 heavily disputed. While it was contested whether any valid meal and rest period policy
2 were ever actually communicated to Plaintiff and Class Members, the data showed very
3 low rates of potential 5th hour violation and/or shifts where no meal period was recorded
4 at all. Specifically, there were only 8.4% of shifts with these issues. With respect to the
5 lack of meal period clock in/out data, there was still variance in the actual experience of
6 class members in that there was information in the data to suggest that timely meal
7 periods were taken by Class Members notwithstanding the lack of timecard data. This
8 created substantial risk that the presumption of meal period violations due to lack of
9 records would be overcome and potentially prevent certification on this claim. Taking
10 these factors into account, a more realistic range of recovery for this claim is \$75,480.30
11 to \$125,800.50.

12 d) Rest Breaks: Similar to the meal period claims, this claim was based on the allegations
13 that Defendants' managers and supervisors regularly instructed Plaintiff and Class
14 Members that meal periods would occur later in the day, if at all, which would also
15 result in second rest breaks not occurring because the late meal break would take its
16 place. Based on the sample data, the maximum exposure for this claim is \$2,875,440.
17 This claim was based on the contention that Plaintiff and Class Members missed 100%
18 of their second rest breaks during shifts lasting longer than six (6) hours. Approximately
19 81% of the shifts for all Class Members were over six (6) hours based on the same data.
20 This claim was also heavily disputed and did not benefit from any presumptive violation
21 based on time records under the law like meal period claims do. This presents
22 substantial risk for Plaintiffs ultimately being able to certify this claim, which is also
23 very difficult to establish on the merits due to their being no requirements to document
24 when, and for how long, rest periods were taken. Additionally, the informal discovery
25 showed some variance in how many people were actually unable to take second rest
26 periods, but Plaintiff's calculations assumed a 100% violation rate on shifts over six (6)
27 hours. Thus, a lower amount would likely be awarded, if any. Taking these factors into
28 account, a more realistic range of recovery for this claim is \$373,807.20 to \$934,518.00.

- 1 e) Reimbursement: This claim was based on Plaintiff's contention that he and Class
2 Members were required to record their hours work and communicate with supervisors
3 using their personal cell phone and travel using their personal vehicle inside Defendants'
4 sites to pick up supplies. Additionally, it became apparent though the informal
5 discovery that not all Class Members traveled and, when they did, the frequency was
6 much lower than initially expected and for smaller distances (.1-1 mile a week). Thus,
7 the mileage claim had nominal value. The claim for reimbursement of cell phone use
8 was much stronger in relative terms and drove the discussion and analysis of the
9 reimbursement claim. The maximum exposure for this claim is approximately
10 \$221,169.26. Notwithstanding this being the stronger of the two reimbursement theories
11 of liability, it still suffered from substantial risks. Because of the nature of the work,
12 many Class Members worked inside the Defendants' work site, which had hardline
13 phones for potential use and Defendant contended that the existence of computer
14 terminals at office locations allowed for Class Members to input their hours worked,
15 making use of cell phones unnecessary. There was substantial risk that a Court may find
16 the availability of alternatives meant the use of personal cell phones was unnecessary
17 and, therefore, not subject to reimbursement. Thus, the more realistic range of recovery
18 is \$44,233.85 to \$110,584.63.
- 19 f) Wage Statement Violations: This claim is derivative of Plaintiffs' overtime, minimum
20 wage, and meal and rest period claims. The maximum exposure for this claim is
21 \$299,525, which is calculated based on an initial violation \$50 per pay period per
22 employee. Based on our research, we did not find any prior Labor Commissioner or
23 court decisions that stated Defendant's practices and/or policies were improper. As
24 such, a "subsequent violation" may not be found for penalty calculation purposes and
25 the exposure analysis here is based on an "initial violation" valuation being adopted by
26 any fact finder if this matter went to trial. This amount does not take into account the
27 potential risks associated with this claim and assumes a violation in every pay period.
28 Because this claim is derivative of Plaintiff's other claims, the same risks identified

1 above for Plaintiff's minimum wages, overtime, meal period, and rest period claims
2 equally apply here, substantially affecting the potential value of this claim. Taking
3 these factors into account, a more realistic range of recovery for this claim is \$89,857.50
4 to \$149,762.50.

5 g) Waiting Time Penalties: This claim is derivative of the minimum wage, overtime and
6 meal and rest period claims above. Because this claim is derivative, the same risks
7 mentioned above also apply to this claim. Similar to the liquidated damages for
8 minimum wage violations, there is a substantial risk that the good faith dispute defense
9 to waiting time penalty claims would apply here. *See Diaz v. Grill Concepts Servs., Inc.*,
10 23 Cal.App.5th 859, 868 (2018). Based on the facts of this case, it is unlikely that there
11 would be any recovery under this claim.

12 h) PAGA: This claim is derivative of the Labor Code violations identified above. Again,
13 we did not find any prior Labor Commissioner or court decisions that stated Defendants'
14 practices and/or policies were improper. As such, a "subsequent violation" may not be
15 found for penalty calculation purposes and the exposure analysis here is based on an
16 "initial violation" valuation being adopted by any fact finder if this matter went to trial.
17 Based on the sample data, the maximum exposure for this claim would be \$4,193,350.
18 However, this amount does not take into account any of the potential risks associated
19 with this claim. Because this claim is derivative it carries all the same risks identified in
20 the claims above. Additionally, the numbers assume the occurrence of at least one
21 violation for each individual within the statute of limitations for each claim for each pay
22 period. For the reasons identified above, it is highly unlikely that Plaintiff would be able
23 to prove a violation for each claim, in each pay period, for each aggrieved employee.
24 Beyond the risks on the merits, the correct valuation of civil penalty amounts for certain
25 claims under PAGA is in dispute. For example, the calculation valued civil penalties for
26 failure to provide meal periods at \$100 per violation instead of \$50 per violation under
27 Labor Code section 558, which results in a reduction from \$599,050 to \$299,525.
28 Similarly, the calculation valued civil penalties for wage statement violations under

1 Labor Code section 226.3 (which provides the civil penalty amount is \$250 per
2 violation) for a total of \$1,497,625 instead of the \$100 per violation default penalty
3 under Labor Code 2699(f), which results in a reduction to \$599,050. Using the lowered
4 valuations would reduce the maximum available PAGA penalties to \$2,396,200.00.
5 Further, I believe the PAGA penalties in this case may be reduced due to the fact that the
6 penalties would be in addition to amounts owed for substantive violations and much of
7 the penalties are based on violations due to technical non-compliance with the Labor
8 Code. Furthermore, Defendants produced a substantial number of documents, that a
9 Court may find demonstrates a good faith attempt at compliance that merits the
10 reduction of civil penalties. Courts regularly cut civil penalties on PAGA claims where
11 statutory penalties for the same violations are assessed as well. Courts are statutorily
12 authorized to use discretion to reduce penalties and the range of discretion used varies
13 substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112,
14 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS
15 154590, *9 (C.D. Cal. 2011) (82% reduction). Thus, even if using the maximum values
16 possible and setting aside risks of proving the claims on the merits, the total exposure
17 may be cut to approximately \$882,621 (82% reduction) to \$3,432,415 (30% reduction)
18 or lower. Using the lower, disputed PAGA penalty values (\$2,396,200 total) would
19 lower the potential exposure further to \$431,316 (82% reduction) to \$1,677,340 (30%
20 reduction). It is important to note that this discretionary reduction is completely separate
21 and in addition to any risks on the merits. Given the facts and highly disputed nature of
22 the claims, we felt the amount that might ultimately be awarded under this claim would
23 be low, especially in light of amounts that Courts have approved as reasonable
24 valuations in similar cases. *See Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589
25 (2010) (approving \$0 allocation to the resolution of PAGA claims based on their being
26 disputed and being part of a class settlement which was evaluated based on the terms of
27 the agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8
28 n.2 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from

.037%-1%); *Jennings v. Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA claims at 0.6% of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation where total PAGA penalty exposure was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox Commc 'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S. Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

10. The maximum recovery if Plaintiff were successful at trial on proving all the substantive class damages plus civil penalties after a reduction of the PAGA penalties would be approximately \$7,098,108, which is inclusive of interest for the unpaid wage claims. Taking this into account, Plaintiff's \$395,000 gross recovery under the Agreement represents approximately 5.6% of the maximum value in this matter. After deducting from the Gross Settlement Amount the proposed

1 allocations for attorneys' fees (\$138,500) and costs (\$10,541.24), the Enhancement Payment to the
2 Class Representative (\$15,000), Settlement Administrator Costs (\$12,500), and the PAGA Payment
3 (\$10,000), the net recovery under the Agreement, \$208,708.76, represents approximately 2.9% of the
4 maximum value in this matter. When comparing to the more realistic ranges of recovery, the gross
5 recovery is approximately 9.7% to 27.5% and the net recovery is approximately 5.1% to 14.5% of the
6 realistic range of recovery. Based on the final numbers from the administrator the average recovery is
7 approximately \$174.99 and the maximum recovery is approximately \$1,952.03. I believe the
8 Agreement represents a reasonable compromise of claims based on the legal and factual disputes in this
9 case. The ability to secure a guaranteed settlement now and ensure Class Members receive some
10 compensation, rather than proceed to further litigation and potentially recover nothing, was a
11 motivating factor in reaching this Agreement.

12 11. In agreeing to take on this case, our office agreed to take this case on a contingency
13 basis, meaning that we would take a percentage of any settlement or judgment should we recover a
14 monetary amount. We took a risk that we would not recover any money in this matter if we were
15 unsuccessful at trial. We also took on the risk that the case may be subject to an unfavorable summary
16 judgment ruling. However, we believe it is important to make sure employees are able to find
17 affordable representation in order to ensure that employers are complying with all their legal
18 obligations towards employees and paying employees all their hard-earned wages. We rely on
19 attorneys' fee awards in order to continue working to ensure California wage and hour protections are
20 enforced. Recovery of our full lodestar plus an appropriate multiplier is necessary to compensate for
21 the risk undertaken. Otherwise, we could not continue to represent employees who are denied wages,
22 but whose cases may be time-consuming and difficult to prove. There have many class cases we have
23 litigated where ultimately we get zero for our time because we are unable to meet certification
24 requirements or the company becomes financially insolvent. Additionally, there are occasions, where
25 the fee recovered actually results in a negative multiplier of our lodestar.

26 12. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law
27 practice that focuses primarily in employment litigation, emphasizing wage and hour litigation. I
28 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the

1 Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two
2 recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the
3 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris
4 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at
5 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my
6 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the
7 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from
8 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*
9 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar
10 Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society
11 and an officer for the Latino Law Students Association from 2009 to 2010.

12 13. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda
13 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.
14 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent
15 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have
16 been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented in a
17 number of seminars covering issues wage and hour litigation in general and complex class and PAGA
18 litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the
19 Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class
20 Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020);
21 (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept.
22 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County
23 Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a
24 Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the
25 Sacramento County Bar Association Labor and Employment Law Section's executive committee in
26 2019 and was the Chair of the executive committee for 2022. I have also been a member of the
27 Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August
28 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA

claims, and Fair Labor Standards Act (“FLSA”) claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, include, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-00271174 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);

- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-00222101 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 34-2019-00263185

(Sac. Sup. Ct);

- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

14. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

15. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)

1 Employment Review seminars from 2014 to the present. His speaking engagements include the
2 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
3 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
4 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
5 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
6 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
7 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
8 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,
9 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the
10 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
11 Panel and AB 1825 Training: Updates on California’s New Wage Laws and Manager Compliance
12 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
13 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
14 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
15 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
16 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
17 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
18 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
19 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
20 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
21 as a Super Lawyer from 2014 to present.

22 16. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
23 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
24 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
25 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
26 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
27 Federal Courts, including up to certification, settlement, preliminary and final approval, and
28 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.

1 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
2 include the following:

- 3 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 4 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 5 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 6 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 7 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 8 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 9 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 10 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 11 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
12 Sup. Ct.);
- 13 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 14 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
15 Ct.);
- 16 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
17 Ct.);
- 18 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
19 Sup. Ct.);
- 20 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 21 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
22 Ct.);
- 23 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 24 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
25 00209613 (Sac. Sup. Ct.);
- 26 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 27 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 28 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)

- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);

- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

17. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

18. My former associate, Jessica L. Hart, Esq., also worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Ms. Hart graduated from the University of California Davis School of Law. Prior to joining Shimoda & Rodriguez Law, PC, Ms. Hart worked alongside a number of attorneys in the Sacramento area focusing almost exclusively on plaintiff's side litigation and employment law for several years prior to becoming licensed in 2020. While with my firm, Ms. Hart worked on a variety of individual, class action, and Private Attorneys General Act cases involving wage and hour claims. As an associate, some of the class action and/or PAGA cases Ms. Hart litigated include the following:

- *Afoa v. Milestone Retirement Communities, LLC., et al.*, Case No. 34-2020-00282555 (Sac. Sup. Ct.);
- *Cota v. Milestone Management (CA) – Meadows, LLC.*, Case No. 34-2020-00280648 (Sac. Sup. Ct.);

- *Coy v. Southern Home Care Services, Inc., et al.*, Case No. 2:21-CV-00067-JAM-CKD (E.D. Cal.);
- *Dreyer v. Automation Anywhere, Inc.* Case No 20CV372730 (Santa Clara Sup. Ct.);
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Fang v. Interpress Technologies, Inc.* Case. No. 34-2021-00292937 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. Aquality Water Management, Inc.* Case No. 34-2021-00292794 (Sac. Sup. Ct.);
- *Hawkins v. Twitch Interactive, Inc.*, Case No. 34-2020-00281761 (Sac. Sup. Ct.);
- *Hussaini v. Integrated Resources, Inc, et al.*, Case. No. 34-2021-00297152 (Sac. Sup. Ct.);
- *Leon v Golden Bay Fence Plus Iron Works, Inc., et al.*, Case No. STK-CV-UOE-2021-0000543 (San Joaquin Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct);
- *Madrigal Vargas v. Mary Ann's Baking Co., Inc.*, Case No. 2:21-CV-00320-JAM-JDP (E.D. Cal.);
- *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup. Ct.);
- *Perez v. Too Infinity Management, LLC, et al.*, Case No. 34-2020-00285276 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Valentin v Sacramento Laundry Company, Inc.* Case.No. 34-2019-00270987 (Sac. Sup. Ct.);
- and
- *Whiteside v. SPSG Partners, et al.*, Case. No. 2:20-cv-01643-TLN-DMC (Sac. Sup. Ct.).

19. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

1 20. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr.
2 Konini graduated from Seton Hall University School of Law. Prior to moving to California, he
3 practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of
4 individual and class action cases, including those involving wage and hour claims, Private Attorney
5 General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and
6 harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing
7 as an associate at my firm from approximately April 2019 to February 2021 and rejoined my firm in
8 September 2022. Mr. Konini has worked on the written and oral discovery, including defending a
9 PAGA representative's deposition, drafting special interrogatories and request for production of
10 documents, calculating class-wide damages, communicating with class representatives, drafting
11 mediation briefs, negotiating, drafting correspondence to defendants' counsel regarding the damages
12 calculated per plaintiffs' claims against defendant companies, and more. Mr. Konini worked on other
13 class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and*
14 *Chemicals, Inc.*, Case No. 34-2018-00236898, *Carr v. Howroyd-Wright Employment Agency, Inc.*,
15 Case No. 34-2018-00228290, *Gomez v. Vander Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-
16 0003954, *Haggins v. Kelly Services, Inc.*, Case No. 34-2017-00220473, *Hussaini v. Integrated*
17 *Resources, Inc.*, et al, Case No. 34-2021-00297152. Mr. Konini's practice largely revolves around
18 wage and hour matters, including PAGA claims.

19 21. My office is requesting attorneys' fees pursuant to the common fund doctrine pursuant
20 to *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v.*
21 *Grauly*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980).
22 Plaintiffs have been able to secure an identifiable benefit on behalf of the class and equity counsels that
23 the cost of the representation should be born equally amongst all class members receiving these
24 benefits. The settlement recovery provides a good result and is the product of substantial time and
25 effort in analyzing the facts and law applicable to this case. There was substantial risk in agreeing to
26 take this case on a contingency basis and as a class action with the possibility that our firm would not
27 receive any compensation their time and efforts due to issues regarding the merits and/or certification
28 and have carried that risk over the course of the case. In my experience, the attorney's fee request of

thirty-five percent (35%) of the common fund is within ranges typically approved in wage and hour class action litigation. This includes awards in Sacramento County Superior Court. For example, in November 2022, this Court approved a fee request of 35% in connection with a motion for final approval of a wage and hour class action settlement in *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.).

22. I believe a lodestar cross check supports finding a 35% fee award is appropriate in this case. The total lodestar is approximately \$152,160.00 based on approximately 252.8 hours, which includes approximately 10 hours of time for myself preparing for and attending the final approval hearing, ensuring compliance and the disbursement of funds consistent with a final approval order. I have reviewed our firm's billing records with Mr. Shimoda and Mr. Konini and have created a summary chart showing the task categories and hours worked by each billing attorney in each category. Ms. Hart was no longer with our firm at the time this Motion was filed, so I was not able to review with her. I independently reviewed her billing entries. A true and correct copy of the summary chart is being filed with this Motion as Exhibit F. In reviewing the entries, I believe the hours reported are accurate. To the extent we believe it appropriate to do so in any given assignment, we attempt to assign tasks to the billing attorney with the lower rate in order to reduce costs that otherwise might inhibit the likelihood a case will resolve. Our firm uses billing software, which tracks the entries by day and time. Our billing software also records time in 1/10 of an hour increments. Our billing software also enables the use of a start/stop timer that can be used to more accurately record how long a particular task takes. A summary of the entries in Exhibit F by timekeeper is as follows:

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Galen T. Shimoda	84.4	\$725	\$61,190
Justin P. Rodriguez	97	\$625	\$60,625
Jessica L. Hart	31.2	\$425	\$13,260
Renald Konini	40.2	\$425	\$17,085
Total:	252.8	--	\$152,160

23. I believe the requested rates are within the prevailing market rates for Sacramento County and elsewhere. Ms. Hart, Mr. Konini, myself, and Mr. Shimoda have approximately 2.5 years,¹ 8 years, 12 years, and 19 years of experience, respectively, litigating complex wage and hour class and PAGA actions. Again, this Court approved these rates for myself and Mr. Shimoda in November 2022. *See Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.). Mr. Konini and Ms. Hart were approved at these rates in connection with a wage and hour class action in Sacramento County Superior Court in January 2023. *See Kee, et al. v. Dr. Jeffrey A. Saladin, Dental Corporation (D/B/A Children's Choice Pediatric Dental Care), et al.*, Case No. 34-2020-00290072. Awarding fees at the hourly rate in effect at the time of the fee request is an appropriate and judicially approved method. *See Missouri v. Jenkins by Agyei*, 491 U.S. 274, 283 (1989). For the foregoing reasons, I believe the request of \$138,250 (35%) for attorneys' fees is justified given the results obtained on behalf of the class.

24. Although the Agreement set out a maximum of \$15,000.00 for potential attorney's costs, the total costs incurred or that will be incurred through a compliance hearing by Class Counsel is \$10,541.24. A true and correct copy of my firm's itemized costs incurred prior to the filing of this Motion and the expected costs incurred through the final approval and compliance hearings is attached to this declaration as Exhibit D. The difference in the actual costs and the maximum amount allocated under the Agreement will be added to the Net Settlement Amount and disbursed to Class Members.

25. I have used several class action administrator companies in the wage and hour class actions I have resolved in the past and believe ILYM Group, Inc. will provide the best service to administer the proposed class settlement. Under the settlement the difference between the originally allocated \$20,000, and the actual administration costs of \$12,500 will be paid to the Class members on a pro rata basis.

26. The intended *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. ("CPB") and The Center For Workers Rights ("CFWR"). Only those funds that remain from uncashed settlement checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

¹ Although licensed in July 2020, Ms. Hart had been working as a Senior Paralegal and Law Clerk for approximately 12 years since she graduated law school in 2004.

1 27. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was
2 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,
3 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,
4 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in
5 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,
6 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services
7 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*
8 *pres* funds from several jurisdictions in the State of California pursuant to California Code of Civil
9 Procedure section 384, including from Sacramento County Superior Court.

10 28. CPB was preliminarily approved as a *cy pres* beneficiary, any funds received will be
11 dedicated to the Employment Law Clinic and Advice Line project, which assists the indigent with legal
12 matters related to their current or former employment. This assistance regularly includes, but is not
13 limited to, free legal advice regarding claims for unpaid wages, failure to provide meal and rest periods,
14 failure to pay reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance
15 with legal forms, and direct representation in administrative hearings, including administrative hearings
16 in front of the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic
17 coordinator who provide assistance, along with experienced employment law attorney volunteers. These
18 services have been a focus of the Employment Law Clinic and Advice Line project since its inception
19 with VLSP and continuing through today under CPB.

20 29. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a
21 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the
22 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-
23 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with
24 workers and advises them as to the available legal remedies. In addition to individual counseling on
25 employment issues, the CFWR educates workers, unions, and community members about workplace
26 laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

27 30. The CFWR provides limited representation for low-wage workers in wage claims before
28 the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety

1 of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic
2 workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay
3 overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The
4 CFWR helps workers navigate the wage claim process before the California Labor Commissioner
5 through advice given at its legal consultation clinics and/or, in some cases, through representing workers
6 in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated
7 towards assisting low-wage workers with wage claims and enforcing the California Labor Code with
8 respect to those wage claims.

9 31. I believe the services provided by CPB and the CFWR promote the law consistent with
10 the objective of wage and hour class actions in general and in this case specifically.

11 32. I have spoken with every other attorney at my firm to determine whether they have any
12 relationship with either of the proposed *cy pres* beneficiaries. Galen T. Shimoda, my partner, has
13 volunteered for both organizations on and off over the past several years through either presenting wage
14 and hour seminars to law students who staff the free advice clinics or helping at the advice clinics
15 themselves. However, Mr. Shimoda has not performed any volunteer work with either organization
16 since approximately March 2020. Mr. Shimoda has never received payment or compensation of any
17 kind in connection with any work he's done with either of the proposed *cy pres* beneficiaries.

18 33. Brittany V. Berzin, an associate attorney at my firm, has never done any work, volunteer
19 or otherwise with Capital Pro Bono, Inc. During law school, Ms. Berzin was a student volunteer for the
20 CFWR for two summers. Since graduating law school, she has volunteered for the CFWR
21 approximately one to two times per year, assisting in the advice clinic. Recently, Ms. Berzin
22 volunteered to be on the Board of Directors and is currently the Chair, which is an unpaid position. As
23 Chair, Ms. Berzin is one of seven Board Members, who are all from different law firms and/or local
24 public and private organizations. The Executive Director of the CFWR controls the day-to-day
25 operations of the CFWR, not Ms. Berzin or the Board of Directors. Furthermore, CFWR has not, and
26 does not, provide any referrals to Shimoda & Rodriguez Law, P.C. Renald Konini who is also an
27 associate attorney at my firm, has never done any work, volunteer or otherwise, with Capital Pro Bono,
28 Inc., or the Center for Workers Rights.

34. I have volunteered for both CPB and the CFWR numerous times over the past several years, either directly in the advice clinics or by presenting seminars on wage and hour laws for law students seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB's advisory committee. I have witnessed firsthand the quality service and attention these entities provide to individuals in need of employment law advice and representation at the California Labor Commissioner. I believe the services they provide directly support and promoted the purposes underlying this lawsuit. I do not receive any compensation, whether direct or indirect, for my time spent volunteering for these entities or for designating them as *cy pres* beneficiaries.

35. A copy of the Agreement and the entire Motion was submitted to the LWDA for review at the same time the Motion was submitted to the Court pursuant to California Labor Code section 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as Exhibit E.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 28, 2023 in Sacramento, California.


Justin R. Rodriguez