

Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
lwlee@diversitylaw.com
mgavron@diversitylaw.com

Kelsey A. Webber (State Bar No. 303721)
Kelsey.Webber@WebberLawGroup.com
Shaelyn A. Stewart (State Bar No. 335149)
Shaelyn.Stewart@webberlawgroup.com
WEBBER LAW GROUP
1610 R Street, Suite 300
Sacramento, California 95811
Telephone: (916) 588-0683

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RICARDO RODRIGUEZ-ALVAREZ, as
an individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

NORTHWEST CONFECTIONS
CALIFORNIA, LLC, a California limited
liability company; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 34-2021-00300622-CU-OE-GDS

**DECLARATION OF MAX W. GAVRON IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: April 21, 2023

Time: 9:00 a.m.

Dept.: 27

Complaint Filed: May 12, 2021

FAC Filed: June 11, 2021

Trial Date: None

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

I, Max W. Gavron, 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, counsel of record for Named Plaintiff to Rodriguez-Alvarez (“Plaintiff”). I have personal knowledge of the facts set forth below and called to testify I could and would do so competently.

2. The Class Notice provided Class Members with my office's contact information, they could further seek information regarding the settlement, leave questions for the Settlement Administrator, and update their address.

3. There were no objections to the amount of attorney's fees or litigation costs that Counsel seek in this case and for which Plaintiff asks the Court for final approval.

4. The Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or Settlement Agreement”) was the product of negotiation between highly able and experienced attorneys on both sides who possessed the relevant data and legal research which they had carefully analyzed. Class Counsel engaged in extensive factual investigation before settling, including reviewing class data and Defendant’s pertinent policies and practices relevant to this case. This allowed Plaintiff to conduct a full damage analysis.

5. The settlement in the case at bar warrants approval and carries a presumption of
6. As previously noted in the application for Preliminary Approval, this current settlement
7. negotiated at arm's length. I support the settlement as fair, reasonable, and adequate, and in
8. the best interest of the Class Members as a whole.

6. Defendant asserts that individualized issues predominate in this case, including limitation, whether Class Members had signed arbitration agreements. Were Class arbitration agreements deemed to be valid, class certification would not be possible. Defendant also asserts that it paid employees for time spent undergoing COVID-19 screenings and that the failure to pay vested vacation wages only impacted a limited number of employees. While I believe that a class can be certified; however, I also believe in the fairness of the settlement that is being proposed. I am inclined to grant the motion on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or

1 more of the causes of action or theories alleged in the operative Complaint, the possibility of
2 non-certification, and potential for appeals.

3 7. I have been approved as class counsel in numerous other wage/hour class actions
4 that have been granted class certification and final approval.

5 8. To date, I have incurred approximately 133.5 hours in connection with the
6 litigation of this lawsuit. Attached as **Exhibit A** is a true and correct copy of a summary of the
7 time I spent litigating this case.

8 9. In addition to the hours above, I also anticipate spending an additional 10 hours
9 through the completion of this case to handle any post-final approval and settlement matters,
10 including communications with the Settlement Administrator and/or any potential issues related
11 to payments from the Settlement Administrator and any other related issues.

12 10. Thus, I anticipate the total amount of my fees incurred in this case to be
13 approximately \$86,100.00 based on 143.5 total hours, which includes 10 anticipated hours, at an
14 hourly rate of \$600.00 per hour. I have been approved at \$600.00 per hour in *Weybrew v. BEI*
15 *Construction*, Solano County Superior Court Case No. FCS055658 (January 14, 2022), *In re*
16 *See's Candies Wage and Hour Cases*, Case No. JCCP5004 (March 30, 2022), Los Angeles
17 Superior Court, *Pevey v. Lumber City Corp*, San Bernardino County Superior Court Case No.
18 CIVDS2010240 (May 2, 2022), *Ross v Stater Bros. Markets*, San Bernardino County Superior
19 Court Case No. CIVDS1902518 (September 8, 2022), and *Schneider v. Amazon Retail LLC*, Los
20 Angeles County Superior Court Case No. 21STCV26226 (December 1, 2022). Prior to that
21 throughout 2020 and 2021, I was approved at an hourly rate of at \$550.00 per hour in *James v*
22 *RADC Enterprises, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS1933035
23 (September 29, 2020), *Hector Luna v. Triple Canopy, Inc.*, Santa Clara County Superior Court,
24 Case No. 19CV345169 (October 22, 2020), *Melbert Magpugay v. Harbor Electronics, Inc.*,
25 Santa Clara County Superior Court Case No. 19CV352547 (January 27, 2021), *Foster v.*
26 *Schindler Elevator Corp.*, Alameda County Superior Court Case no. RG19029640 (March 2,
27 2021), *Martin v. Streetplus Company, LLC, et al*, Los Angeles Superior Court Case No.
28 19STCV15522 (July 13, 2021), *Morris v. Blue Mountain Enterprises, LLC*, Solano County

1 Superior Court, Case No. FCS05.858 (August 4, 2021).

2 11. I am one of the primary attorneys on this matter. My qualifications are as follows:
3 I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013,
4 magna cum laude. I was in the top 5% of my class. During my time at Southwestern, I was a
5 Notes and Comments Editor on the Southwestern Law Review. I also received awards for
6 achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at
7 the United States District Court for the Central District. Immediately after law school, I taught
8 several courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I
9 taught those courses for approximately four years.

10 12. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately
11 September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted
12 in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute.
13 I also regularly litigated cases across the civil litigation spectrum, including employment matters.

14 13. From February 2016, through Fall 2017, I practiced at the international law firm
15 of Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
16 companies in Multi-District Litigation primarily in the product liability sphere. I also
17 successfully drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary
18 judgment decision regarding trade secret issues, in addition to working in several other practice
19 groups.

20 14. From September 2017, through September 2018, I served as a law clerk to a
21 Judge sitting on the United States District Court, Central District of California. I regularly
22 prepared bench memoranda, on cases involving all types of civil litigation, including regularly
23 working on wage and hour class actions.

24 15. I am currently an associate at the law firm Diversity Law Group, P.C., an
25 employment law firm that has handled numerous wage and hour class and individual actions, on
26 both plaintiff and defense sides. My current practice focuses on employment matters involving
27 both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior
28 Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the

1 United States District Courts for the Central, Northern, and Eastern Districts of California. I am
2 currently handling, or have handled, numerous wage and hour class action lawsuits with the firm,
3 including, but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-
4 001906, Stanislaus County Superior Court); *Heredia v. Eddie Bauer LLC* (Case No.
5 16CV300475, United States District Court, Northern District of California); *Parsons v. Estenson*
6 *Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior Court); and *Rodas v.*
7 *Goodyear Tire* (Case No. 21-cv-07526, United States District Court, Central District of
8 California), among many others.

9 16. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of
10 Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28,
11 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our
12 clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

13 17. I have also assisted the firm in numerous wage and hour class action mediations.

14 18. My firm has incurred costs in the amount of \$9,234.40. The costs are all litigation
15 related costs, including filing fees, messenger costs, mediation fees, and other costs. Attached
16 hereto as **Exhibit B** is copy of the costs my firm has incurred in connection with prosecution of
17 this lawsuit.

18 19. Concurrent with the filing of Plaintiff's Motion, my office provided notice to the
19 Labor and Workforce Development Agency.

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

22 Executed on this 29th day of March 2023, at Los Angeles, California.

23 
24 _____
25 Max W. Gavron
26
27
28

EXHIBIT A

Rodriguez-Alvarez v. Northwest Confections California, LLC
MG Time and Task Chart

Hours	Description of Work
28.7	Initial research and review of background facts in preparation for filing of class action claims; draft PAGA letter; confer with co-counsel re theories of liability and conduct research re same; analysis and research re defendant
3.1	Draft and revise complaint; and first amended complaint.
2.6	Prepare drafts of initial discovery requests, including Requests for Production and Special Interrogatories.
18.1	Meet and confer with defense counsel re claims and arbitration agreement; conduct legal research re applicability of arbitration agreement; confer with client and co-counsel re same.
1.2	Analyze and review notice of case management conference; meet and confer with defense counsel re same.
1.3	Analyze and review docket and pleadings in related action filed against same defendant to determine whether it had impact on claims in this case; conduct legal research re potentially preclusive effect of this claim.
1.2	Confer with defense counsel re possible mediation; exchange correspondence re proposed mediators
10.2	Analysis, strategy, and research re information required from defendant to participate in mediation; draft and revise data requests for defense counsel in advance of mediation; confer with co-counsel re the same
7.6	Analyze and review policies and procedures, employee handbook, time off policy, etc., and sampling of time and pay records, provided by defense counsel informally to further evaluate liability in advance of mediation
7.4	Conduct legal research re claims in light of data provided by defendant in advance of mediation and prepare analysis of liability and damages exposure model re the same; confer with co-counsel re same
8.1	Draft and revise mediation brief; conduct legal research for same; review of case law; further analyze and review data provided by defendant to calculate damages exposure in advance of mediation; confer with co-counsel
11.2	Prepare for, and attend, mediation
3.2	Continued negotiations and discussions with mediator and defense counsel after mediation to address anticipated terms of settlement, including revisions to memorandum of understanding
8.4	Review and revise settlement agreement and related documents (i.e., settlement agreement, class notice); conversations with opposing counsel re same; confer with co-counsel re terms of settlement agreement and make revisions in light of same

Hours	Description of Work
8.1	Review and revise Motion for Preliminary Approval and Declarations thereto; confer with co-counsel and opposing counsel re same
.9	Analyze and review Court's preliminary approval order; confer with defense counsel
5.1	Correspond with settlement administrator regarding distribution of class notice; analyze and review reports from class administrator re opt-outs received; correspond and confer with class members and respond to inquiries re settlement
7.1	Draft and revise motion for final approval and supporting documents; confer with co-counsel re the same; conduct legal research re same
133.5	TOTAL HOURS

EXHIBIT B

3/24/2023
2:33 PM

DIVERSITY LAW GROUP
Slip Listing

Page 1

Selection Criteria

Slip Classification Open
Client (hand select) Include: Rodriguez-Alvarez v. Northwest
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		
66931	EXP	Linda Lee	1	75.00	75.00
4/16/2021		Court fees			
WIP		Rodriguez-Alvarez v. Northw			
LWDA					
67290	EXP	Olympia	1	6.96	6.96
4/30/2021		Postage			
WIP		Rodriguez-Alvarez v. Northw			
Postage					
67470	EXP	Olympia	1	1639.45	1639.45
5/12/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - Complaint					
67710	EXP	Olympia	22	0.25	5.50
5/31/2021		Photocopies			
WIP		Rodriguez-Alvarez v. Northw			
Photocopies					
67711	EXP	Olympia	1	2.31	2.31
5/31/2021		Postage			
WIP		Rodriguez-Alvarez v. Northw			
Postage					
67806	EXP	Olympia	1	59.45	59.45
6/11/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - FAC					
67822	EXP	Olympia	1	53.95	53.95
6/15/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - Notice					
67838	EXP	Olympia	1	41.59	41.59
6/22/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - Notice					

3/24/2023
2:33 PM

DIVERSITY LAW GROUP
Slip Listing

Page 2

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		
67841	EXP	Olympia	1	54.95	54.95
6/23/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - Notice					
67910	EXP	Olympia	24	0.25	6.00
6/30/2021		Photocopies			
WIP		Rodriguez-Alvarez v. Northw			
Photocopies					
67911	EXP	Olympia	1	3.13	3.13
6/30/2021		Postage			
WIP		Rodriguez-Alvarez v. Northw			
Postage					
68870	EXP	Olympia	1	56.95	56.95
8/10/2021		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service - Notice					
68820	EXP	Olympia	9	0.25	2.25
8/31/2021		Photocopies			
WIP		Rodriguez-Alvarez v. Northw			
Photocopies					
68821	EXP	Olympia	1	0.71	0.71
8/31/2021		Postage			
WIP		Rodriguez-Alvarez v. Northw			
Postage					
71063	EXP	Olympia	1	57.71	57.71
2/24/2022		Atty Service			
WIP		Rodriguez-Alvarez v. Northw			
Attorney Service					
71178	EXP	Olympia	1	0.53	0.53
2/28/2022		Postage			
WIP		Rodriguez-Alvarez v. Northw			
Postage					
72769	EXP	Linda Lee	1	14.20	14.20
6/30/2022		Online researc			
WIP		Rodriguez-Alvarez v. Northw			
Sac Superior Court Docs					
72307	EXP	Olympia	1	6250.00	6250.00
7/1/2022		Arbitrators			
WIP		Rodriguez-Alvarez v. Northw			
Judicate West Mediation					

3/24/2023
2:34 PM

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
72975 EXP 8/18/2022 WIP Attorney Service - Joint CMS	Erika Mejia Atty Service Rodriguez-Alvarez v. Northw	1	57.71	57.71
73085 EXP 8/31/2022 WIP Photocopies	Olympia Photocopies Rodriguez-Alvarez v. Northw	3	0.25	0.75
73086 EXP 8/31/2022 WIP Postage	Olympia Postage Rodriguez-Alvarez v. Northw	1	0.57	0.57
74089 EXP 12/9/2022 WIP Attorney Service - MPA	Erika Mejia Atty Service Rodriguez-Alvarez v. Northw	1	282.99	282.99
74370 EXP 1/18/2023 WIP Attorney Service - Joint CMS	Erika Mejia Atty Service Rodriguez-Alvarez v. Northw	1	61.74	61.74
74737 EXP 3/24/2023 WIP MFA Filing/Service Costs	Max Gavron Court fees Rodriguez-Alvarez v. Northw	1	500.00	500.00
Grand Total	Billable Unbillable Total	0.00 0.00 0.00		9234.40 0.00 9234.40