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10 Attorneys for Plaintiffs,
11 MARIA MARAVILLA and JUAN TORRES REYES
on behalf of themselves and all similarly situated employees
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14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF MONTEREY**

16 MARIA MARAVILLA and JUAN TORRES
17 REYES on behalf of themselves and all similarly
situated employees,

18 v.

19 GREENGATE FRESH, LLLP; and DOES 1
20 through 50, inclusive,

21 Defendants.
22
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24

Case No. 21CV001258

**DECLARATION OF B. JAMES
FITZPATRICK IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: July 26, 2024

Time: 8:30 a.m.

Dept: 14

Action Filed: April 15, 2021

Trial Date: Not Set

1 I, B. James Fitzpatrick, hereby declare and state as follows:

2 1. I am an attorney duly admitted to practice in the State of California and am a partner in
3 the law firm of Fitzpatrick & Swanston, counsel of record for Plaintiffs Maria Maravilla and Juan Torres
4 Reyes (“Plaintiffs”). I have personal knowledge of the facts set forth below and if called to testify I
5 could and would do so competently.

6 2. Class Counsel support the settlement as fair, reasonable, and adequate, and in the best
7 interest of the Settlement Class Members as a whole.

8 3. Class Counsel’s application for an award of attorneys’ fees in the amount of \$236,463.00
9 and reimbursement of litigation costs in the amount of \$12,653.90 is reasonable and fair. These amounts
10 are well within what is reasonable and customary in both wage and hour settlements and class action
11 settlements in general and is based on the skill displayed by Class Counsel, the effort and resources
12 invested in this case by Class Counsel, the factual and legal complexities of this case, the importance of
13 the interests which are the subject of this litigation, the risks undertaken by Class Counsel, and the
14 degree of success achieved by Class Counsel.

15 4. The Settlement Agreement was the product of negotiations between highly able and
16 experienced attorneys on both sides who possessed the relevant data and extensive information which
17 they had carefully analyzed. Over many years in highly contested litigation the Parties engaged in
18 extensive investigation and discovery, involving formal and informal discovery, and in arm’s length
19 negotiations at mediation with an experienced neutral that resulted in the settlement.

20 5. Class Counsel engaged in extensive factual investigation before settling, including the
21 exchange of formal and informal discovery, involving propounding and responding to formal written
22 discovery, analyzing putative class member time and payroll records, and reviewing Defendant’s
23 pertinent payroll policies. This allowed Class Counsel to conduct a full analysis of exposure.

24 6. There were no objections by Settlement Class Members to the amount of attorneys’ fees
25 or litigation costs. Furthermore, zero opt-outs were submitted. In light of this overwhelmingly positive
26 response from Settlement Class Members, an inference can be made that the Settlement Class supports
27 the Court’s Preliminary Approval Order finding that the Settlement Agreement is fair and reasonable.

1 7. The Settlement Agreement authorized Plaintiffs to request Class Representative Service
2 Awards of \$5,000.00 each for serving as the Class Representative. Plaintiffs provided significant
3 assistance with the lawsuit, including providing information and documents to their counsel, discussing
4 the lawsuit with their counsel on multiple occasions, remaining available during mediation, reviewing
5 various documents, including the complaint, PAGA letter, their respective declarations, and the
6 Settlement Agreement.

7 8. Plaintiffs do not have any interests adverse to the Settlement Class, nor have any such
8 issues been raised or presented. Plaintiffs have taken all necessary steps to represent the interests of the
9 Settlement Class.

10 9. I am familiar with all aspects of this case and all tasks undertaken by the various
11 members of this firm in litigating this case. I have spent significant time pursuing the claims that have
12 been alleged in this action since the commencement of the case. I have been assisted by attorney Laura
13 L. Franklin and several paralegals in my office. As a result of my firm's diligence in pursuing the factual
14 and legal issues presented by this case, we were able to realistically assess the Class Members' claims,
15 evaluate their damages, and Defendant's exposure. All work performed by our office is done on a
16 contingency basis. Our firm has received no compensation for our time invested or expenses incurred in
17 litigating this case. We have prosecuted this litigation up to this point, taking the risk that we ultimately
18 would not receive any compensation for our work. My office will have invested 265 hours on this case,
19 which includes anticipated future time. Attached hereto as **Exhibit A** is a detailed summary of tasks and
20 hours spent by this firm in litigating this case.

21 10. The hourly rate for attorneys in this firm is \$800.00 and the hourly rate for paralegals is
22 \$185.00. Since at least 2020, I have been approved at hourly rates of \$750.00 and \$800.00 per hour by
23 various Courts, in several matters, including, in the matters entitled: *Jose Antonio Ortiz Arrellano v.*
24 *Rocha Brothers Farms, LLC*, Santa Cruz County Superior Court, Case No. 21CV01286; *Sione Fuapau*
25 *v. LHOIST North America of Arizona, Inc.*, United States District Court, Northern District of California,
26 Case No. 20-CV-04404-VKD; *Sandra Lopez v. Motel 6 Operating, L.P.*, Ventura County Superior Court
27 Case No. 56-2020-00542312-CU-OE-VTA; *Christina Mendoza v. Planned Parenthood Mar Monte*,

1 *Inc.*, Santa Clara Superior Court, Case No. 18CV329544; *Javier Mendoza v. National Vision, Inc.*,
2 United States District Court, Northern District of California, Case No. 19-CV-01485-SVK; *Valarie*
3 *Murray v. Granite Wellness Centers*, Nevada County Superior Court, Case No. CU20-084680; and
4 *Nicolas Serafica v. HGST, Inc.*, Santa Clara County Superior Court Case No. 21CV386574.

5 11. In this motion, I request a reduced attorney hourly rate of \$595.00. Accordingly, the total
6 lodestar for my hours will be approximately \$138,635.00 based on the reduced hourly rate of \$595.00
7 per hour [\$595.00 x 233 attorney hours]. This has been the approved hourly rate by this Court for the
8 past three years without any adjustment for inflation.

9 12. Having represented both employees and employers during my practice, I am familiar
10 with the contingent fee market throughout Northern California, where I primarily practice law, and in
11 other areas of the state in which my firm regularly litigates. Considering our experience and my
12 knowledge of the market, I believe that the hourly rates charged by my firm, and previously approved by
13 this Court, are fair and reasonable and less than those charged by my colleagues in other areas of
14 California and the national market for prosecuting class actions.

15 13. I received my bachelor's degree from the University of California, Santa Barbara and my
16 Juris Doctor degree from the University of Santa Clara School of Law. I have practiced law since 1987.
17 The primary emphasis of my practice is employment litigation. I have represented both employers and
18 employees. Over 15 years ago, my office commenced handling plaintiff class action wage and hour
19 cases. Since then, my office has handled hundreds of wage and hour cases to conclusion and has been
20 class counsel and/or co-counsel in over 100 class actions. My firm currently has wage and hour cases in
21 Alameda County Superior Court, Monterey County Superior Court, Nevada County Superior Court,
22 Santa Clara Superior Court, San Benito Superior Court, San Bernardino County Superior Court, San
23 Joaquin County Superior Court Santa Cruz Superior Court, Ventura County Superior Court, and the
24 United States District Courts for the Eastern and Northern District of California.

25 14. Class Counsel risked not only a great deal of time, but also significant expense to ensure
26 the successful litigation of this action on behalf of all employees. In addition to the supporting
27 documentation and legal authority presented in Plaintiffs' moving papers, Class Counsel submits that the
28

1 attorneys' fees proposed are not just fair and reasonable; they are necessary in order to incentivize
2 attorneys to take on the risk of time and expense associated with Class actions. Indeed, many times
3 counsel expend enormous amounts of work and out of pocket costs in the interest of aggrieved
4 employees and/or the State of California, only to end up without any recovery whatsoever. For
5 example, Class Counsel expended significant time and expenses in a wage/hour class and PAGA action,
6 only to have the District Court grant summary judgment in its entirety against plaintiff. See *Gwynn-
7 Neupane*, 2021 WL 4481661 (N.D. Cal. Sep. 30, 2021). There are actual risks that Plaintiff requests this
8 Court take into account when considering the requested attorneys' fees, including any multiplier to be
9 accounted into Plaintiffs' lodestar.

10 15. To date, my firm has incurred \$7,291.85 in litigation costs. The costs are all litigation-
11 related costs. All costs were reasonable and necessary to the effective prosecution of this matter. Class
12 Counsel advanced costs without guarantee that any of the advanced costs would be recovered. *Berkeley
13 Cement, Inc. v. Regents of the University of California*, (2019) 30 Cal. App. 5th 1133, explains that
14 mediation-related expenses are recoverable under the circumstances of this case. Attached hereto as
15 **Exhibit B** is a copy of the litigation costs my firm has incurred in connection with the prosecution of
16 this lawsuit.

17 16. I do not have a conflict of interest with Plaintiffs or the Class Members. My co-counsel
18 and I will adequately represent the Class Members in this action. Class Counsel has and will zealously
19 represent Plaintiff and the Class and pursue this lawsuit to its conclusion.

20 17. Neither counsel nor their respective firms have any relationship with the proposed *cy pres*
21 recipient that would create an actual or potential conflict of interest. The Parties further agree that the
22 Watsonville Law Center, satisfies the legislative intent set out in Code of Civil Procedure § 384(a), in
23 that the organization helps further the purposes of the underlying action and promote justice for all
24 Californians.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is
26 true and correct and if called as a witness I could and would competently testify to each of the matters
27 stated herein, and I state that these matters are based upon my own personal knowledge acquired
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1 through first-hand observation, except where stated otherwise. This declaration was executed by me on
2 July 3, 2024, in Salinas, California.

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5 B. James Fitzpatrick
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EXHIBIT A

TASKS AND HOURS

The tasks referenced below involved work by attorneys and paralegals. The amount of time spent by each is detailed below.

I. INVESTIGATION

Task

- Meetings/telephonic conferences with clients and current/former employees regarding their employment and alleged violations
- Review of documents provided by clients and current/former employees;
- Prepare and serve requests for personnel files;
- Review personnel files;
- Numerous intra-office meetings/conferences regarding planning, results and details of investigations;
- Research for other lawsuits against defendant;
- LWDA research
- Legal research regarding IWC Wage Orders; and
- Legal research regarding claims that would be alleged in the complaint;

Attorney Hours: 25

Paralegal Hours: 5

II. PLEADINGS

Task

- Prepare and file Complaint, Civil Cover Sheet, Summons;
- Receive and review CMC and Assignment Notice;
- Prepare and File First Amended Complaint/Summons;
- Prepare and file Proof of Service of Summons;

Attorney Hours: 3

Paralegal Hours: 0.3

III. CASE MANAGEMENT CONFERENCES

Task

- Prepare, file and serve CMC statement; prepare for and attend 9/14/21 CMC;
- Review 9/14/21 Minute Order:
- Prepare, file and serve CMC statement; prepare for and attend 12/7/21 CMC;
- Review 12/7/21 Minute Order:
- Prepare, file and serve CMC statement; prepare for and attend 5/16/23 CMC;
- Review 5/16/23 Minute Order:
- Prepare, file and serve CMC statement; prepare for and attend 1/12/24 CMC;
- Review 1/12/24 Minute Order:

Attorney Hours: 4

Paralegal Hours: 0.2

IV. DISCOVERY

Task

- Numerous intra-office meetings/conferences;
- Serve data request; and
- Receive and review mediation data consisting of approximately 5,000 pages.

Attorney Hours: 65

Paralegal Hours: 15

V. MOTIONS

Task

Defendant's Motion to Compel Arbitration

- Receive and review motion, declarations, and RJN;
- Receive and review amended motion and supporting documents;
- Prepare, file, and serve opposition, declaration, RJN, and objections to evidence;
- Receive and review reply;
- Prepare for and attend hearing;
- Receive and review minute order;
- Prepare, file and serve supplemental briefing;
- Prepare for and attend second hearing;
- Receive and review order granting motion;

Attorney Hours: 25

Paralegal Hours: 2

VI. MEDIATION

Task

- Multiple follow up meetings with clients and co-workers to prepare for mediation;
- Multiple communications with defense counsel regarding mediation;
- Legal research;
- Analysis and revision of damage models calculating damages, interest and penalties;
- Follow up intra-office meetings/conferences regarding claims, damages, and settlement;
- Review and revise mediation brief;
- Prepare for and attend mediation;
- Review and revise MOU
- Meeting with clients regarding MOU
- Multiple follow up meetings with clients to prepare for mediation;

Attorney Hours: 60

Paralegal Hours: 5.5

VII. MATTERS RELATING TO MOTION FOR PRELIMINARY APPROVAL

Task

- Multiple meetings/conferences with defense counsel regarding the stipulation for settlement; notice materials and motion for preliminary approval;
- Numerous intra-office meetings/conferences regarding the stipulation for settlement, notice materials and motion for preliminary approval;
- Review and revise settlement stipulation;
- Meet with Plaintiff to review the settlement stipulation;
- Review and revise drafts of the notice materials;
- Review and revise drafts of the motion for preliminary approval;
- Prepare for and attend hearing;
- Receive and review Order;
- Review and approve the Notice Materials from the Claims Administrator;

Attorney Hours: 20

Paralegal Hours: 2.5

VIII. MATTERS RELATING TO MOTION FOR FINAL APPROVAL

Task

- Review and revise drafts of motion for final approval;
- Preparation for and attendance at hearing; and
- Anticipated multiple communications regarding the status of the final approval hearing and distribution of payment.

Attorney Hours: 15
Paralegal Hours: 1.5

Total Attorney Hours: 233
Total Paralegal Hours: 32

Total Attorney and Paralegal Hours: 265

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EXHIBIT B

Cost/Expense Detail

Date	Code	Check #	Type	Units	Amount	Description	Date Billed	Amount Billed
M0106 Maravilla, Maria								
600 Maravilla v. GreenGate Fresh								
4/2/21	105		Cost		75.00	DLSE PAGA Filing Fee		
4/15/21	102		Cost		1,478.06	Odyssey Efile - Complaint & Complex Fees		
4/22/21	16	50872	Exp.		11.43	General Logistics Systems US, Inc. Delivery Fee on 3/31/21		
4/22/21	16	50872	Exp.		14.14	General Logistics Systems US, Inc. Delivery Fee on 4/15/21		
8/11/21	01	60128	Exp.		101.30	Sayler Legal Service, Inc. Court Messenger Service on 7/19/21		
8/12/21	102		Cost		3.60	Odyssey Efile		
2/1/22	15	1052	Exp.		5,000.00	Ortman Mediation Mediation Fees		
2/28/22	02	60267	Exp.		29.83	General Logistics Systems US, Inc. Delivery Service on 02/02/22		
5/20/22	102		Cost		3.60	Odyssey Efile		
6/8/22	16	60329	Exp.		14.26	General Logistics Systems US, Inc. Delivery Service on 05/10/22		
6/8/22	16	60329	Exp.		16.75	General Logistics Systems US, Inc. Delivery Service on 05/13/22		
6/8/22	16	60329	Exp.		11.77	General Logistics Systems US, Inc. Delivery Service on 05/16/22		
6/8/22	16	60329	Exp.		11.28	General Logistics Systems US, Inc. Delivery Service on 05/17/22		
6/8/22	16	60329	Exp.		11.28	General Logistics Systems US, Inc. Delivery Service on 05/17/22		
6/8/22	16	60329	Exp.		11.77	General Logistics Systems US, Inc. Delivery Service on 05/18/22		
6/8/22	16	60329	Exp.		14.28	General Logistics Systems US, Inc. Delivery Service on 05/19/22		
6/17/22	102		Cost		3.60	Odyssey Efile		
7/7/22	01	60338	Exp.		277.70	Sayler Legal Service, Inc. Court Messenger Service - Julio McMahon at 1222 Merrill St, Salinas, CA 93901		
7/20/22	102		Cost		3.60	Odyssey Efile		
9/8/22	102		Cost		3.60	Odyssey Efile		
9/19/22	01	1117	Exp.		65.00	San Benito Process Service Service Fee		
11/29/22	01	60431	Exp.		130.00	Sayler Legal Service, Inc. Court Messenger Service - RE: 340 El Camino Real S #50, Salinas, CA 93901		
Matter Total					7,291.85			.00
Client Total					7,291.85			.00
Report Total:								
Total					7,291.85			.00

Types: Unbilled Costs, Unbilled Expenses, Billed Costs, Billed Expenses

Selection criteria: Client: M0106 Matter: 600

Sorted by: Client Number / Matter Number