

Eric K. Yaeckel [CSB No. 274608]
yaeckel@sullivanlawgroupapc.com
Ryan T. Kuhn [CSB No. 324538]
ryan@sullivanlawgroupapc.com
SULLIVAN & YAECKEL LAW GROUP, APC
2330 Third Avenue
San Diego, California 92101
(619) 702-6760 * (619) 702-6761 FAX

Attorneys for Plaintiffs PRISCILLA LOPEZ and JULIE BRITNEY CASTILLO
[additional counsel listed below]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL

PRISCILLA LOPEZ,

Plaintiffs,

vs.

GEO SECURE SERVICES, LLC, a Florida
Limited Liability Company; and DOES 1-10,
inclusive,

Defendants.

AND ALL CONSOLIDATED LITIGATIONS.

Case No. ECU002060

**DECLARATION ERIC K. YAECKEL IN
SUPPORT OF PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL APPROVAL OF (1)
CLASS ACTION SETTLEMENT; (2)
ATTORNEYS' FEES AND COSTS; and (3)
CLASS REPRESENTATIVE AWARD**

Date: May 9, 2024
Time: 8:30 a.m.
Dept.: 5
Judge: Hon. Jeffrey B. Jones
.

1 **COLBY LAW FIRM, PC**

Aaron N. Colby (SBN 247339)

2 aaron@colbylegal.com

3 Zoe Yuzna (SBN 268496)

zoe@colbylegal.com

13263 Ventura Boulevard, Suite 203

4 Studio City, CA 91604

5 Tel: (818)253-1599; Fax: (818)475-1981

6 Attorneys for Plaintiffs SAMDEESHIA BELL
and TEZSANIQUE HENDRICKSON

7 **BIBIYAN LAW GROUP, P.C.**

8 David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

9 Jeffrey Klein (SBN 297296)

jeff@tomorrowlaw.com

10 8484 Wilshire Blvd, Suite 500

Beverly Hills, California 90211

11 Tel: (310) 438-5555; Fax: (310) 300-1705

12 Attorneys for Plaintiff NICKOLAS ORTIZ

1 I, Eric K. Yaeckel, hereby declare:

2
3 1. I am an attorney licensed to practice law before all the courts of the State of California and
4 am employed with the law firm of SULLIVAN & YAECKEL LAW GROUP, APC, attorneys of
5 record for Plaintiffs PRISCILLA LOPEZ and JULIE BRITNEY CASTILLO in this matter.

6 2. I make this declaration in support of Plaintiffs' Unopposed Motion For Final Approval Of
7 (1) Class Action Settlement; (2) Attorneys' Fees And Costs; And (3) Class Representative Award. I
8 am personally familiar with the facts set forth in this declaration, and if called to testify could and
9 would do so.

10
11 3. Lead trial counsel, Mr. William Sullivan, has been a California-licensed attorney for 28
12 years. He has approximately 27 years of experience in "class action" litigation, both as plaintiff
13 and defense counsel.

14 4. I have over 13 years of experience as an attorney. I have spent my entire practice engaged
15 in prosecuting class and representative actions. I became a partner in the firm in 2020.

16 5. Our office are the attorneys of record in a matter very recently (and favorably) decided
17 before the California Supreme Court titled *Donohue v. AMN Services, LLC*, 11 Cal.5th 58 (2021).
18 The *Donohue* matter is a certified class and PAGA action.

19 6. Our office is lead counsel on approximately 30 employment "wage and hour" claims with
20 class action, or representative action, allegations. These cases are set within the California Superior
21 Court and Federal District Courts in California. Our office is currently lead counsel on claims that
22 have been certified by both Court Order and by stipulation of the parties. In the last three years, the
23 Sullivan & Yaeckel Law Group has settled at least 15 employment "wage and hour" claims on
24 behalf of a Certified Class.
25

1 7. Our firm has the requisite experience knowledge of California law and the Federal Rules of
2 Civil Procedure required to act on behalf of the Class. I consider the Settlement Agreement in this
3 matter to represent a fair, adequate and reasonable settlement that is well within the accepted range
4 of recoveries for similar wage and hour class actions. I also believe the Agreement is in the best
5 interests of the Settlement Class Members. I am also aware that Defendants' counsel (both the firm,
6 and individual attorneys working on this case) have extensive experience defending similar wage
7 and hour class actions.
8

9 8. I have approximately 13 years experience in the prosecution of PAGA allegations,
10 including (successful) Trial experience.

11 9. In the last five years, the Sullivan & Yaeckel Law Group has tried three "Wage and Hour"
12 Representative (PAGA). In a recent successful PAGA trial, tried before Judge Bacal, our office was
13 awarded our full requested attorneys fees, and was approved at the requested hourly rates. Please
14 See *Carrington v. Starbucks Corp.* San Diego Superior Court, Case No. 37-2014-00018637-CU-
15 OE-CTL and published appellate opinion 30 Cal.App.5th 504.
16

17 **Strengths of Plaintiff's Case and The Amount Offered in Settlement**

18 10. My office has met and conferred with Defendant's counsel, and we agree the amounts
19 payable to Plaintiff and each Class member are within the "ballpark range" of proportional liability
20 as set forth in *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488, 499. A
21 detailed breakdown of the valuation of each claim was previously detailed this Court at the
22 preliminary approval stage.
23

24 11. As part of the mediation, Plaintiffs were able also to provide Defendants with a detailed "scope
25 of liability" calculations based on Defendants own verified records and policies. Throughout the
26 litigation Defendants presented potentially valid defenses to class certification, liability and
27

1 damages. Based on these considerations, and the risks involved in continuing litigation, I submit
2 the \$3,980,000.00 settlement represents a fair and – more than – reasonable settlement.
3 Additionally, I submit that the payment of \$112,500.00 to the LWDA for the PAGA claims (75%
4 share of \$150,000.00 allocation), even though the LWDA declined to prosecute the claims itself, is
5 a fair, reasonable and adequate allocation.¹ The settlement is in the best interests of the settlement
6 class.

7 12. Plaintiffs obtained verified copies of Defendants' uniform time keeping, employee
8 compensation, Meal Period, Rest Period, and reimbursement policies. In addition to Plaintiffs' time
9 and wage records, Defendants also produced a large sampling of class member's records. Including
10 "outside" documentation, Counsel reviewed over thousands pages of documents.

11 13. Through this review, Plaintiffs' counsel was able to analyze and verify the following: the
12 uniformity of Defendants' "timekeeping" and compensation practices and the average net effect it
13 had on Defendants' nonexempt employees; the format and content of Defendants' itemized wage
14 statements; the average rate of pay for Defendants' nonexempt employees; and the average number
15 of apparent meal period violations per employee based on multiple sets of timekeeping data.

16 14. From this data, a detailed valuation of all claims was performed, and was presented to this
17 Court at the preliminary approval stage. Three separate Plaintiff's and their counsel all concurred
18 that there was sufficient discovery (formal and informal) to evaluate the settlement. While
19 Plaintiffs maintained the claims were all viable, Plaintiffs (and their counsel) recognize there were
20 substantial risks to proceeding on behalf of a class and representative group. Defendants presented
21 several potentially valid defenses to certification, liability and mitigation of damages.

22 **The Risk, Expense, Complexity and Likely Duration of Further Litigation**
23

24 ¹The LWDA was also served with copies of the Settlement Agreement and Preliminary
25 Approval Motion and has not objected or responded to date.
26

15. If the litigation were to proceed in lieu of settlement, additional and substantial attorneys fees and costs and expert witnesses fees would be incurred. Given the numerous claims being litigated, the parties may be required to hire multiple experts each (as many as 4 per side). This would result in not only the production of eight expert reports, but eight depositions as well. And, based on previous discussions between counsel regarding the remaining claims (including the PAGA claims), the parties anticipated (at the very least) that there would be at least one discovery motion, a Motion for Class Certification and at least two dueling motions for summary judgment / adjudication (one from each side).

The Presence of a Governmental Actor

16. The LWDA was notified and declined to prosecute the claims itself. Counsel for the parties believe the PAGA penalty allocated is a fair, reasonable, and adequate allocation. The LWDA was also served with copies of the preliminary approval papers and proposed settlement and has not objected or responded to date.

The Contingent Nature of the Fee Agreement, and Inherent Risk Therein, Supports Awarding a Percentage of the Recovery

17. My office was retained by each of the Plaintiffs on a contingency basis. A percentage fee of 35% (thirty-five percent) of any total recovery, was freely negotiated. As part of the agreement, Plaintiffs' Counsel was required to continue the prosecution of the matter regardless of the outcome of the preliminary motions (i.e. arbitration, class certification, etc).

The Continuing Obligation to Devote Time and Effort to the Litigation

18. Since the tentative agreement, my office has had to devote considerable time to maintain the litigation, achieve Court approval for the proposed settlement, and assist the proposed Class Members with questions about the Class Notice, Potential Release and all available options. As is detailed in paragraph 21(d) below, and based on my experience acting as class counsel, I also estimate at least another 25 hours by my office will be devoted to this case.

- 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

- 2
- 3
- 4
- 5

6

7
8
9

0

- 1
- 2
- 3
- 4
- 5
- 6
- 7

8
9
20
21
22
23
24
25

1 California. The preliminary investigation included the review and analysis of several
2 thousand documents, as well as additional phone interviews with at least 22 other
3 Class Members. Mr. Sullivan undertook a significant (approximately 80 hours of)
4 pre-filing investigation, wherein many of the Class Member interviews took place.
5 During this time, Mr. Sullivan also investigated Defendant, its business practices,
6 and any variations in Class Members' job duties and rates of pay.

- 7 b. I was the partner primarily assigned to oversee the "day to day" activity of the
8 primary associates assigned to this case. My billing rate is \$600.00 per hour. I have
9 currently expended approximately **347.9** hours in the service of this action. **347.9**
10 hours times **\$600.00** equals **\$208,740.00**. Aside from supervising the Associates,
11 this work includes attending hearings and most of the day to day communication
12 with opposing counsel. I also primarily handled the numerous exchanges between
13 the mediator and Defense counsel to negotiate and finalize the settlement following
14 the progress made at mediation. I also undertook the review and drafting of all
15 settlement documents and the preliminary and final approval motions.
- 16 c. Mr. Ryan Kuhn also served as Associate Attorneys assigned to the case. The billing
17 rate for the Associate Attorneys is **\$420.00** per hour. The associates expended
18 approximately **277.5** hours in the service of this action. **277.5** hours times **\$420.00**
19 equals **\$116,550.00**. The work performed by the associates consisted of, for the most
20 part, analysis of Defendants' documents and records, in preparation for mediation
21 and a class certification motion. The associates were also assigned to discovery
22 creation/review, the preparation of "meet and confer" letters and other contact with
23 defense counsel, and the drafting and filing of numerous separate motions, including
24 pleadings challenges and numerous different motions to compel discovery. The
25 associates also provided an analysis of employment records to determine
26 "commonality" and damages.

1 d. Based on past experience, I estimate that I will incur an additional 25 hours in
2 assisting Class Members on questions and issues regarding the settlement, meeting
3 with Class Members (including on any late submissions), and preparing for and
4 attending the Final Approval hearing in this matter. 25 times \$600.00 equals
5 **\$15,000.00.**
6

7 22. The attorneys for Plaintiff's have entered into a Joint Prosecution Agreement, in which
8 Sullivan & Yaeckel Law Group, Apc, Colby Law Firm, Pc, And Bibiyan Law Group, P.C. each
9 agree to accept one-third of the total attorneys' fees awarded in this matter. All named Plaintiff's
10 have been informed and consented to this fee sharing agreement.

11 23. Sullivan & Yaeckel Law Group, APC's total costs expended in this matter will be
12 \$19,313.16. These costs are broken down as follows:

- 13 a. Filing and appearance fees (including the Complaints, an Appeal in related
14 litigation, numerous motions, and all other pleadings, all e-file charges, court
15 calls, LWDA filing fees and attorney messenger (service and delivery) fees)
16 totaled \$5,710.85.
17
18 b. Mediation fees totaled \$5,167.34.
19
20 c. Fees related to third party consultation services (involving expert forensic
21 analysis of time and wage records) amounted to \$2,250.
22
23 d. I approximate my office has expended approximately \$975.20.00 in legal
24 research fees in connection with this case.
25
26 e. I approximate my office has expended \$158.32 in copies and postage fees in
27 this matter.
28

f. My office has expended approximately \$1,938.01 in travel fees including meals while traveling, mileage, and hotels fees in connection with numerous trips to and from San Diego to Imperial Valley, in this case.

24. The parties' Agreement permits Plaintiffs (without Opposition) to seek up to \$50,000.00 in costs. Plaintiffs submit their request for the specific \$45,211.62 amount of costs, which represents the amounts detailed herein, and those detailed in the accompanying declarations of my co-counsel.

The Lodestar Multiplier

25. Given fees incurred here, no lodestar multiplier is necessary.

Class Representative Enhancement

26. Both Plaintiffs (Castillo and Lopez) contributed extensive time and resources in the prosecution of this case, as is detailed further in their declarations. Plaintiffs were both able to provide information instrumental to the prosecution of this matter including identifying numerous witnesses that could corroborate the claims. Each Plaintiff also assisted with reviewing and providing insight on Defendant's documents produced. Both Plaintiffs brought to our attention numerous Labor Code violations that formed the basis of the litigation.

27. I know (from experience) that any company who does a detailed background check, will be able to determine that Plaintiffs are serving as class representatives in a lawsuit against their former employer.

28. An entire industry exists that allows employers to run extensive background searches on potential employees. Companies who provide these services specifically highlight the fact that their services allows employers to weed out litigious employment candidates. One such service outlines ways that employers can "get a sense of whether a prospective employee is likely to sue" the employer, through background checks and other means, to screen out these employees. www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees. Onicra Credit Rating Agency of India states: "Background screening has become a necessity in today's litigious

society." Back Track Screening also represents: "In today's litigious culture, employers simply cannot afford to hire employees who will put their company at risk." <http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf>.

29. Finally, any employer may simply check the various Superior Court of California websites and conduct a party name search to uncover whether an applicant has previously filed litigation against their employer.

30. Plaintiffs also risked personally owing a large cost award, which I estimate would be well into the tens of thousands of dollars, had the claims been unsuccessful.

29. Despite all the risks Plaintiffs, at all times remained committed to securing a monetary recovery on behalf of the entire class.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of April, 2024 at San Diego, California.

Eric Yaeckel

ERIC K. YAECKEL