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Attorneys for Plaintiffs and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

ISMAEL VIERA and ERIC DAVILA,
individually and on behalf of aggrieved
employees and the State of California,

Plaintiffs,

v.

CRANE ACQUISITION, INC., dba CRANE
PEST CONTROL, ROLLINS, INC., ORKIN,
LLC, and DOES 1-20, inclusive,

Defendants.

Case No. CGC-22-597870

**DECLARATION OF MELODY RISSELL
LEONARD IN SUPPORT OF APPROVAL
OF PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Assigned to the Honorable Mary Wiss

Courtroom: 305
Hearing Date: January 10, 2025
Hearing Time: 9:30 a.m.

1 I, Melody Rissell Leonard, declare as follows:

2 1. I have personal knowledge of the matters stated in this declaration except those
3 matters stated on information and belief and if called upon as a witness I could and would
4 competently testify thereto.

5 2. I am an attorney licensed to practice law in the State of California and Nevada. I
6 am the principal attorney at Rissell Law, APC ("RL"), one of the firms of record for Plaintiff and
7 aggrieved employees and together with Olivier & Schreiber PC, we represent Plaintiffs Ismael
8 Viera and Eric Davila.

9 **LITIGATION AND TRIAL PREPARATION EFFORTS**

10 3. Plaintiff Viera filed his notice of claims with the Labor and Workforce
11 Development Agency ("LWDA") on July 30, 2020. He filed his complaint on January 27, 2022.

12 4. On March 25, 2022, Plaintiff Viera served his first set of Requests for Production,
13 Special Interrogatories, and Form Interrogatories General to the three Defendants.

14 5. Due to the parties agreeing to attending an early mediation in August 2022,
15 Plaintiff provided Defendants with several extensions until they served their responses to this
16 discovery on August 19, 2022.

17 6. Plaintiff engaged in extensive meet and confer efforts regarding Defendants'
18 responses before ultimately having to file a motion to compel further discovery responses and
19 requesting sanctions on October 3, 2022. On November 3, 2022, I appeared at the motion hearing.
20 Judge ProTem William C. Lynn heard the matter and ordered Defendants to provide further
21 responses to Plaintiffs' requests. The Court set four compliance hearings after the initial hearing.
22 My appearance was required at several of these hearings to provide information to the Court
23 concerning Defendants' compliance with the Court's discovery order.

24 7. Pursuant to the order compelling further responses, Defendants served
25 supplemental discovery responses on December 1, 2022 and 14, 2022. Defendants also served
26 further responses and document productions on March 1 and 8, 2023.

1 8. On June 15, 2023, I took the deposition of Kanetha Stephens, Rollins' Payroll
2 Director whom Defendants had designated as a corporate representative for certain topics noticed
3 in Plaintiff's deposition notice.

4 9. On March 22, 2023, we served a third-party subpoena duces tecum to Netspend
5 Corporation, a payroll debit card company that issued payroll cards to aggrieved employees in
6 this case.

7 10. After engaging in extensive meet and confer discussions with counsel for
8 Netspend, Netspend served a supplemental response on November 17, 2023.

9 11. On July 11, 2023, Defendants served responses and supplemental document
10 production. The responses were deficient and required extensive meet and confer efforts to obtain
11 complete and code compliant responses.

12 12. On July 19, 2023, Plaintiff served his Third Set of Special Interrogatories on
13 Defendants.

14 13. On August 11, 2023, Defendants served Plaintiff with their first sets of Form
15 Interrogatories General and Requests for Production of Documents. My staff and I assisted Mr.
16 Viera with responding to this discovery, serving his responses on September 22, 2023.

17 14. On August 29, 2023, I defended Plaintiff Ismael Viera's deposition.

18 15. On September 13, 2023, after further meet and confer efforts, Defendants
19 produced further documents that were responsive to Plaintiff's June 2023 Deposition Notice.

20 16. On September 22, 2023, Defendants' counsel Lyle Chan produced a declaration
21 in support of their supplemental discovery.

22 17. On October 13, 2023, Defendants served supplemental responses to Plaintiff's
23 Third Set of Special Interrogatories.

24 18. On November 13, 2023, Orkin served supplemental responses to Special
25 Interrogatories number 21 and 22 and a supplemental document production.

26 19. On December 13, 2023, Crane served supplemental responses to Special
27 Interrogatories number 21 and 22 and a supplemental document production.

1 20. In December 2023 and January 2024, I assisted with drafting and researching legal
2 issues for Plaintiff's Motion for Summary Adjudication, which the Court granted in part in
3 February 2024.

4 21. On February 25, 2024, Plaintiff served supplemental discovery requests on
5 Defendants in advance of the April 24, 2024 trial date.

6 22. On February 27, 2024, Plaintiff sent Defendants their Third Set of Requests for
7 Production.

8 23. On May 2, 2024, Defendants served responses to those requests and a
9 supplemental document production.

10 24. On May 16, 2024, May 24, 2024, June 18, 2024, June 24, 2024, June 25, 2024,
11 Defendants served supplemental discovery responses and document productions.

12 25. On July 2, 2024, Plaintiff served Defendants his First Set of Requests for
13 Admissions.

14 26. On July 4, 2024, Plaintiff served Defendants his Fourth Set of Special
15 Interrogatories.

16 27. On July 9, 2024, Plaintiff served Defendants his Fifth Set of Special
17 Interrogatories.

18 28. On August 9, 2024, August 12, 2024, August 23, 2024, and August 26, 2024,
19 Defendants provided responses and supplemental responses to the foregoing discovery requests.

20 29. On September 12, 2024, Eric Davila was added as a Plaintiff to the complaint and
21 Plaintiffs filed their first amended complaint.

22 30. On October 16, 2024, Defendants served updated data showing the number of
23 aggrieved employees and the pay periods at issue.

24 31. From August 2024 through October 21, 2024, Plaintiffs engaged in pretrial
25 preparation, including witness preparation, percipient witness interviews, pretrial drafting of
26 motions in limine, and drafting a trial brief.

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33. In early 2024, the parties agreed to retain a private mediator, retired Judge Jeffrey K. Winikow, to assist them in resolving the claims. In advance of mediation, Plaintiffs provided Defendants with their expert report from David Breshears which calculated Defendants' potential penalty exposure. At all times, the parties negotiated at arms' length.

35. On October 10, 2024, Plaintiffs tried to resolve this matter again at a mandatory settlement conference set with Martin Triano, who was assigned by the San Francisco Superior Court ADR Coordinator. The matter did not resolve at the settlement conference.

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37. I earned a Juris Doctor degree from the University of Nevada Las Vegas in May 2018. I am licensed to practice law in Nevada and California, and I have been licensed for six (6) and four (4) years, respectively. I have owned and operated RL (also known as “Rissell Law Firm”) in California since May 2020. From late 2020-2022 I served as “Of Counsel” for Payton Employment Law PC and Mehtani Law Offices, assisting with litigation matters at these law firms in addition to handling my own case load and hourly clients.

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dozens of, Title VII, ADA, FEHA, wage and hour, and sexual assault matters on behalf of Plaintiffs and occasionally Defendants when an employee client is sued.

39. I am a member of the California Employment Lawyers Association (CELA), Consumer Attorneys Association of Los Angeles (CAALA), San Francisco Trial Lawyers Association (SFTLA), and the Consumer Advocacy Organization California (CAOC). I am a member of the Aids Legal Referral Panel in San Francisco. I volunteer at least one hour of pro bono time to the organization each year, providing advice to low-income clients of ALRP. I volunteer for Legal Aid At Work each year, coaching and mentoring law students in UC Law San Francisco and UC Irvine's Law School LAAW Clinics.

40. I have been named a "Super Lawyer" and "Rising Star" in Northern California in 2023 and 2024.

41. In *Marshall Holland v. Mosser Companies, Inc.* (San Francisco Superior Court Case No. CGC-23-609952), on July 25, 2024, Judge ProTem Philip S. Ward awarded sanctions to my firm based on declarations that the firm's former associate attorney (Isabella Dominguez) and I submitted to the Court in support of the motion. In the declaration that I submitted to the Court, I stated that my hourly rate was \$575 per hour. The Court approved the hourly rate, stating the following regarding the hourly rate in its order: "The hours and rates quoted are certainly reasonable and, likely, understated."

42. I charge my hourly clients \$600 per hour to provide legal advice and counsel concerning various workplace issues, severance agreements, and to engage in settlement discussions on their behalf.

43. During the time that I have owned and operated RL, I have litigated the following cases on behalf of clients successfully, resulting in confidential settlements. I have also negotiated numerous pre-litigation settlements. I acted as sole counsel for the Plaintiffs in the following FEHA and wage and hour matters (and two Defendant employees who were sued by their employers following the Plaintiffs having pursued pre-litigation claims):

- *Flynn Development Group, LLC et al. v. Amanda Cambria et al.* (San Francisco Superior Court Case No. CGC-23-603809);
- *Taniela Finau v. The City of Oakland* (Alameda County Superior Court Case No. 23CV029192);
- *Ramiro Gomez v. RP Coatings, Inc. et al.* (Alameda County Superior Court Case No. 21CV004389);
- *Geoffrey Henderson v. Walmart, Inc.* (Northern District of California Case No. 3:23-cv-02063-TSH);
- *Wilhelmina Gabriel v. Teresita Hilario* (San Francisco Superior Court Case No. CGC-21-595011);
- *Danisha Monroe v. Crane Acquisition, Inc. et al.* (Alameda County Superior Court Case No. 22CV009371);
- *Liza Smirnov-Hansen v. Boba Guys, Inc. et al.* (San Francisco Superior Court Case No. CGC-22-598026);
- *Edward Wang v. Ayar Labs, Inc. et al.* (Alameda County Superior Court Case No. RG21110318).

44. During the time that I have owned and operated RL, I have litigated the following FEHA, wage and hour, UNRUH, and sexual assault cases successfully, resulting in confidential settlements on behalf of Plaintiffs, while acting as Co-Counsel or Of Counsel for the Plaintiffs:

- *Paula Haro v. Paul Gardner et al.* (Second Judicial District Court Washoe County Nevada Case No. CV22-013210);
- *Karen Hawkey v. Poppy Bank* (Marin County Superior Court Case No. CIV-22-01626);
- *Marilyn Ojehonmon v. JSI Acquisition, Inc. et al.* (Los Angeles County Superior Court Case No. 20STCV42380);
- *D.H. v. Circle 8 Productions, LLC* (Los Angeles County Superior Court Case No. 20STCV01348);

- *Everton Beckford v. Step Up On Second Street, Inc.* (Los Angeles County Superior Court Case No. 20STCV41453);
- *Erick Beck v. Bell Bros. Steel, Inc.* (Kern County Superior Court);
- *Daniel Lucio v. Gazelle Transportation, LLC* (Los Angeles County Superior Court Case No. 19STCV11319);
- *Nakia Cooper v. Mark Dulberg, DC* (Contra Costa County Superior Court Case No. C21-01813);
- Confidential Arbitration Hearing with Signature Resolution in August 2021;
- Confidential Arbitration Matter with Judicate West, resolved;
- Confidential Arbitration Matter with Judicate West, resolved;

FEES AND COSTS INCURRED ON THIS CASE

45. RL billed a total of approximately 349.2 hours on this matter as of December 4, 2024 for a lodestar of \$163,862.

46. In prosecuting this case, the firms made every effort to efficiently divide the work and avoid duplication.

47. My reasonable hourly rate is \$600 per hour. In total, I have spent 253 hours on this matter.

48. Set forth below are the largest categories of work that we performed and the approximate hours that we spent performing this work:

Trial preparation	125 hours
Motion practice, research, and drafting of pleadings	15 hours
Deposition and hearing preparation and attendance	25 hours
Discovery and factual investigation	62 hours
Client Communication	60 hours
Case management and litigation strategy analysis	13.2 hours
Settlement negotiations and mediation	25 hours
Pre-litigation investigation and drafting the complaint	24 hours

49. A former attorney employed at my law firm, Isabella Dominguez, spent 14.2 hours working on this matter while employed as a law clerk, prior to becoming an attorney. Ms. Dominguez was admitted to practice law in California in June 2024 and graduated from Gonzaga School of Law in 2022. While a law clerk at the firm, her reasonable hourly rate was \$300 per hour. After becoming a licensed attorney, Ms. Dominguez billed 4.5 hours in this case. As an attorney, her reasonable hourly rate is \$400, which was approved by Judge Ward as detailed in the same order previously referenced. Belen Hernandez, another law clerk that RL previously employed, spent .6 hours working on the matter. Ms. Hernandez's reasonable hourly rate was \$280 and she graduated from law school in 2024. Kelley Christensen, RL's legal assistant, spent 21.9 hours working on this matter. Ms. Christensen's reasonable hourly rate is \$260 per hour. Diandra Alvarez, a legal assistant, spent 1.3 hours working on this matter. Ms. Alvarez's reasonable hourly rate is \$200 per hour.

50. The chart below reflects the total hours billed by myself and members of my staff and their hourly rates:

Name	Position	Rate	Hours	Total
Melody Rissell Leonard	Attorney	\$600	253	\$151,680
Isabella Dominguez	Attorney	\$400	4.5	\$1,800
Isabella Dominguez	Law Clerk	\$300	14.2	\$4,260
Belen Hernandez	Law Clerk	\$280	.6	\$168
Kelley Christensen	Legal Assistant	\$260	21.9	\$5,694
Diandra Alvarez	Legal Assistant	\$200	1.3	\$260

51. RL incurred \$13,054.37 in costs that were directly related to the litigation, trial, and settlement of this lawsuit. The costs were for mediators' fees, filing fees, research fees, travel expenses, court reporter fees, videographer fees, and court fees.

52. We continually monitor prevailing market rates charged by both defense and plaintiffs' law firms for individuals with similar levels of skill and experience who are doing comparable work as our attorneys and staff. We gather this information from surveys, the review

1 of other fee applications, and conversations with attorneys in the relevant billing market. We set
2 the billing rates for our firm to be consistent with the prevailing market rates in the private sector
3 for attorneys and staff of comparable skill, qualifications and experience.

4 53. The availability of competitive hourly rates directly influences the decisions my firm
5 makes about whether to take or decline cases. If our current hourly rates were unavailable in all or
6 a majority of cases, I would not be able to maintain my contingent fee practice in the employment
7 area; it would simply be financially impossible to do so.

8 54. Plaintiffs' side contingency employment cases carry great risk for plaintiff's
9 attorneys. Even where a defendant engages in a clear violation of an employee's rights, there may
10 not be significant economic incentive for a plaintiff's attorney to agree to represent a plaintiff on a
11 contingency basis. While working with other firms and at RL, we have consistently turned down a
12 majority of the potential clients who come to us seeking help, and unfortunately, for economic and
13 business reasons, we turn down many otherwise meritorious cases. Many of my clients are able to
14 seek legal redress and vindicate their important statutory rights as workers only because we offer
15 contingency fee representation for cases we deem meritorious. It is difficult for many employees
16 to find competent representation on an affordable or wholly contingent fee basis, where not only
17 are fees contingent upon the claimant prevailing, but also the attorneys are advancing legal
18 expenses along the way. It is even more difficult to secure such litigation representation if the
19 employees present a potential case that involves complicated legal issues that have not been
20 definitively resolved or are in flux like those in this case.

21 55. Based on my experience, statutory employment cases are challenging for plaintiffs'
22 attorneys to litigate and resolve. Defendants often resist discussing settlement with employees early
23 in the proceedings and extensive discovery and motion practice is usually necessary before
24 meaningful settlement discussions occur and for a plaintiff to prevail at trial.

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56. In my experience, it is the possibility of recovering a full compensatory fee award at the conclusion of a successful statutory employment case that provides the incentive necessary for attorneys to accept difficult, time-consuming and risky cases that vindicate the important rights and public policies embodied in employment statutes.

Executed on this 4th Day of December 2024 at Orange County, California.

RISSELL LAW, APC

MRZ

Melody Rissell Leonard

*Attorneys for Plaintiffs and
Aggrieved Employees*