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Attorneys for Plaintiff DIVA ALFARO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

DIVA ALFARO on behalf of herself and all similarly situated persons, and the general public, Plaintiff, v. PARAMOUNT RESIDENTIAL MORTGAGE GROUP, INC.; and DOES 1 through 25, inclusive, Defendants.	CASE NO. CVRI2103949 *Assigned for all purposes to the Honorable Harold Hopp, Dept. 10* **DECLARATION OF REUBEN D. NATHAN IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Hearing Date: June 7, 2023 Time: 8:30 a.m. Dept: 10 **Reservation ID: 993285268943**

DECLARATION OF REUBEN D. NATHAN

I, REUBEN D. NATHAN, declare that:

1. I make this declaration of my personal knowledge and could testify thereto if called as a witness and I possess the experience and personal knowledge necessary to make the statements herein.

2. I am the principal attorney at the law firm of Nathan & Associates, APC ("RN"). I am co-counsel of record for Plaintiff Diva Alfaro in this class action against Paramount Residential Mortgage Group, Inc. I am submitting this Declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

3. I am an attorney at law licensed to practice in the State of California and the District of Columbia, and I am a member of the bar of this Court. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently thereto.

4. I make this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

5. Plaintiff has no conflict of interest with the class members. She performed similar work and was subject to the same policies and practices as the Class Members. Plaintiff's claims are identical to the claims of the other class members and arise from the same course of conduct by Defendants. Plaintiff has embraced their responsibilities as the class representative by actively participating in this case, providing documents, identifying potential witnesses, providing valuable information regarding the policies and practices at issue in this case and Defendants' business structure, engaging in the settlement process, and consulting with counsel throughout the litigation.

6. Plaintiff has devoted considerable time to this litigation and is prepared to continue to do so, demonstrating her commitment to achieving the best possible result for the class.[1] *Id*. Further, Plaintiff is represented by qualified and competent counsel, who have the experience and resources necessary to vigorously pursue this action.

[1] Further details regarding Plaintiff's work on the case will be presented in a declaration with the motion for final approval.

Because the commonality, typicality, and adequacy requirements of Rule 23(a) are met, Plaintiff should be appointed as the class representative. Plaintiff's counsel should also be appointed to represent the settlement class. The factors that apply in deciding whether to appoint class counsel are (1) the work counsel has done in identifying or investigating potential claims in the action; (2) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (3) counsel's knowledge of the applicable law; and (4) the resources that counsel will commit to representing the class. FED. R. CIV. P. 23(g)(1)(A).

7. As set forth herein, Plaintiff's counsel conducted a thorough investigation of the claims at issue before filing the complaint and during the three years and three months of litigation leading up to this settlement. Plaintiff's counsel has extensive experience litigating wage-and-hour class actions and representative actions, is well-versed in the applicable law, and has ample resources to dedicate to the case.

MARKET RATES IN COMPARISON TO CLASS COUNSEL

8. Based on my knowledge and experience, the hourly rates charged by my firm are within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. These are the same hourly rates that we actually charge to our hourly clients who have retained us for non-contingent matters, and which are actually paid by those clients. I have personal knowledge of the range of hourly rates typically charged by counsel in our field in California and I have weighted the market rates into account and have aligned my rate with that of the market.

9. Non-contingent market rates charged by attorneys in California are as follows: (1) by the attorneys' fee applications of counsel of record; (2) by discussing fees with other attorneys; (3) by obtaining declarations regarding prevailing market rates filed by other attorneys seeking fees; and (4) by reviewing attorneys' fee applications and awards in other cases, as well as surveys and articles on attorney's fees in the legal newspapers and treatises. Comparable hourly rates include:

i. *Williams v. H&R Block Enterprises, Inc.*, Alameda County Superior Ct. No. RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a wage and hour class

action, in which the court found the hourly rates of $785, $775, and $750 reasonable for the more senior class counsel.

ii. *Pierce v. County of Orange*, 905 F. Supp. 2d 1017 (C.D. Cal. 2012), a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar- based, *inter alia*, on 2011 rates of $850 and $825 per hour.

iii. *Holloway et. al. v. Best Buy Co., Inc.*, No. 05-5056 PJH (N.D. Cal. 2011) (Order dated November 9, 2011), a class action alleging that Best Buy discriminated against female, African American and Latino employees by denying them promotions and lucrative sales positions, in which the court approved lodestar-based rates of up to $825 per hour.

10. Surveys also justify my firm's hourly rate: Similarly, on February 25, 2011, the Wall Street Journal published an on-line article entitled "Top Billers." That article listed the 2010 and/or 2009 hourly rates for more than 125 attorneys, in a variety of practice areas and cases, who charged $1,000 per hour or more. Indeed, the article specifically lists *eleven* (11) Gibson Dunn & Crutcher attorneys billing at $1,000 per hour or more.

11. The Westlaw CourtExpress Legal Billing Reports for May, August, and December 2009 show that as far back as 2009, attorneys with as little as 19 years of experience were charging $800 per hour or more, and that the rates requested here are well within the range of those reported. Again, current rates are significantly higher.

REASONABLE HOURLY RATES

12. The fee request sought herein is reasonable in light of the contingent nature or the fee, the amount of work performed, the quality of work performed, and most importantly the results/benefits to the class.

13. Fee awards are almost always determined based on current rates, such as the attorney's rate at the time a motion for fees is made rather than the historical rate at the time the work was performed.

14. This Court can appreciate that litigating a high-stakes cases against defendant with deep pockets, represented by a top-notch law firm, dealing with issues that are unsettled is not

appealing to most lawyers. Even more challenging is the heightened risk as a result of having to finance that type of litigation, which was not undertaken lightly.

15. One difficulty in determining the hourly rate of attorneys of similar skill and experience in the relevant community is the scarcity of hourly fee-paying clients in class action litigation. As a practical matter, few if any consumers or employees pay attorney's fees on an hourly basis for such litigation. Thus, in such cases attorneys base their retainer agreements on a contingency fee relationship.

16. This class action case involves California's wage and hour laws. Litigating a wage and hour class action through trial can take years and frequently requires the investment of hundreds of thousands of dollars in costs. This is a very difficult area of law and not within the knowledge of many lawyers as it requires knowledge of the substantive law, class action procedure and enforcement positions of state and federal agencies. Class action work of this type requires specialized learning and the willingness to take large risks. Plaintiffs' counsel used a high level of skill in the difficult questions that arose in this case.

17. Class action cases unlike many others can only properly be litigated one at a time, which required me to forego accepting other cases during the time of this litigation. The requirements of this were significant.

18. There is no question that my firm was precluded from taking other cases, and in fact, had to turn away other meritorious fee generating cases in order to meet the demands of this case.

19. We were paid nothing along the way and had to pay expenses for costs. I believe a fee request of thirty five (35) percent of the total settlement amount is reasonable in this case given Class Counsel's efforts.

20. My hourly rate of $900.00 has been supported by other court's issuing an award at the requested rate. I have been named a Super Lawyer for several years consistently through 2022 and won such awards as Class Action Attorney of the Year. I have represented and continue to represent plaintiffs in various types of class action cases.

21. I have served as lead class counsel in several cases, including some of the following, which are set forth below:

a. *Reid v. Diedrich Coffee, Inc., et al*., U.S. District Court, Central District of California, Case No. SACV06-888 AG (MLGx);

b. *Scerca v. Town & Country, et al.,* U.S. District Court, Central District of California, Case No. SACV06-889 AG (MLGx);

c. *Hilliard v. Ameriquest, et al. and Torok v. Ameriquest, et al.,* U.S. District Court Central District of California, Case No. SACV06-892 JVS (ANx);

d. *Strich v. Solstice Capital*, *et al.,* U.S. District Court Central District of California, Case No. CV05-8757 SGL (RNBx);

e. *The Parking Concepts Wage & Hour Cases*, Los Angeles County Superior Court, Case No. JCCP 4531;

f. *Griffin et al. v 725 Baker LLC, Orange County County Superior Court,* Case No. 30-2010-00397655-CU-OE-CXC;

g. *Leon v. Allied Exhaust Systems*, Los Angeles Superior Court, Case No.: BC438653;

h. *De Los Santos v. Lala's Argentine Grill,* Los Angeles Superior Court, Case No. BC472215;

i. *Duarte v. Heroes Restaurants, Inc.,* Orange County Superior Court, Case No.: 30-2012-00581304;

j. *Lopez v. My World Enterprises, Inc*., Los Angeles Superior Court, Case No. BC506687;

k. *Taylor v. Loandepot.com, llc*., Orange County Superior Court, Case No. 30-2013-00648925;

l. *Soto v. Wild Planet, Inc*., Northern District of California, Case No. 5:15-cv-05082, resulting in a settlement on behalf of class members;

m. *Tran v. Paramount Mortgage, LLC*, Orange County Superior Court,

Case No. 30-00827323 resulting in a settlement on behalf of class members;

n. *Morris v. SolarCity Corporation*, Northern District of California, Case No. 5:15-cv-005107, resulting in a $15,000,000.00 settlement on behalf of class members;

o. *Santoli v. The Money Source, Inc., et al.*, Orange County Superior Court, Case No. 30-2017-00917450 resulting in a $1,500,000.00 settlement on behalf of class members;

p. *Lavelle v. Nationstar Mortgage, et al*., Orange County Superior Court, Case No. 30-2017-00917438 resulting in a $10,050,000.00 settlement on behalf of class members;

q. *Arnold v. Guaranteed Rate Inc., et al*., Ventura County Superior Court, Case No. 56-2019-00523081-CU-OE-VTA.

r. *Sicairos v. Staffmark Investment, LLC, et al*., Orange County Superior Court, Case No. 30-2019-01050988, PAGA only action, resulting in a $1,500,000 settlement on behalf of aggrieved employees, resulting in $350 per pay period and approximately $2,000 per aggrieved employee;

s. *Louka v. Nations Direct Mortgage, et al.,* Orange County Superior Court, Case No. 30-2019-01042277-CU-OE-CXC;

t. *Arevalos v. Americor Funding, Inc., et al.*, Orange County Superior Court, Case No. 30-2019-01068606-CU-OE-CX; and

u. *Nelson v. Bridgestone Retail Operations, LLC, et al*. San Diego Superior Court, Case No. 37-2020-00035994-CU-OE-CTL, coordinated with *Bridgestone Retail Wage and Hour Cases*, JCCP Action, San Bernardino Superior Court, Case No. JCCP 5054, consolidated with *Strawn v. Bridgestone Retail Operations, LLC, et al*., Sacramento Superior Court, Case No. 34-2018-00242049

25. My firm's fee application, in any case, before any court of law, has never been reduced.

26. My firm undertook this representation on a contingent basis recognizing that the risk of non-payment has been high throughout this litigation. I recognized that there were substantial uncertainties in the viability of this case as a class action. A realistic assessment shows that the risks in the resolution of the liability issues, protracted litigation in this action as well as the probable appeals process, are great.

27. If this case had not resolved through settlement, I would have vigorously prosecuted the case through class certification, summary judgment, trial, and appeal. My firm was therefore at great risk for non-payment.

28. Under Ninth Circuit standards, a District Court may award attorneys' fees under either the "percentage-of-the-benefit" method or the "lodestar" method. Fischel v. Equitable Life Assur. Soc'y, 307 F.3d 997, 1006 (9th Cir. 2002); Hanlon v. Chrysler Corp., 150 F.3d 1011, 1029 (9th Cir. 1998). Class Counsel's fee request is fair and reasonable under either of these methods.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on May 15, 2023, at Newport Beach, California.

Reuben D. Nathan