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Attorneys for Plaintiff Diva Alfaro and the Proposed Class

SUPERIOR COURT 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

**DECLARATION OF MATTHEW
RIGHETTI IN SUPPORT OF
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE
ENHANCEMENTS, ATTORNEYS'
FEES AND COSTS AND JUDGMENT**

*Assigned for all purposes to the
Honorable Harold Hopp, Dept. 1*

Hearing Date: November 17, 2023
Time: 8:30 a.m.

[Complaint filed: August 27, 2021]

1 I, MATTHEW RIGHETTI, declare that:

2 I make this declaration of my personal knowledge and could testify thereto if called as
3 a witness.

4 **EDUCATION AND EXPERIENCE**

5 1. I graduated from the University of California at Berkeley in 1982 with a degree in
6 Economics. I then graduated from the University of San Francisco School of Law in 1985. I
7 am admitted to practice law before the following courts: A) United States Court of Appeal in
8 the Ninth Circuit, the Fourth Circuit and the Federal Circuit; B) United States District Courts
9 in the Northern, Central, Eastern, and Southern Districts of California, and the Northern
10 District of Illinois, and C) all of California's state courts.

11 2. I have been practicing law full time for the past thirty-five (35) years. My practice
12 has been devoted to complex class action litigation for the past twenty-six years. Much of this
13 litigation has involved class action prosecution of wage and hour laws (state and federal),
14 state and federal privacy laws (FCRA, CCPA and CCCRA) and consumer laws. I have been
15 approved by courts to serve as Class Counsel on numerous prior occasions and have never
16 been rejected from serving as class counsel A sampling of some of the more significant class
17 action cases (including wage and hour litigation) handled by Righetti Glugoski, P.C.,
includes:

18 • Co-lead counsel in *Rocher v. Sav-On Drug Stores* (Hon. Victoria G. Chaney, Los
19 Angeles County Superior Court); See, *Sav-On Drug Stores, Inc. v. Superior Court*, (2004) 34
20 Cal.4th 319 (reversing the Second DCA, the California Supreme Court unanimously
21 reinstated the trial court's order granting class certification). The *Sav-On* litigation was
22 settled after the first phase of trial.

23 • Lead counsel in *Gentry v. Circuit City Stores, Inc.*, (2007) 42 Cal.4th 443 (reversing
24 the Court of Appeal, the California Supreme Court set forth the factors for trial courts to use
25 in determining whether or not to enforce bans on class actions in employment arbitration
26 agreements).

27 • Lead counsel in *Crab Addison v. Superior Court*, (2008) 169 Cal.App.4th 958
28 [affirming the trial court, the Court of Appeal upheld an order compelling defendant to

divulge names and contact information of putative class members in wage and hour overtime action].

- Lead counsel in *Rutti v. Lojack Corp., Inc.* (2010) 596 F.3d 1046 [granting plaintiffs' petition for rehearing, the Ninth Circuit reversed the district court's summary judgment order setting parameters for the *de minimus* doctrine and compensable "hours worked" under both state and federal law].

- Co-lead counsel in *In re Trans Union Privacy Litigation* (MDL, Northern District of Illinois). We were appointed by the Hon. Marvin E. Aspen to serve as co-lead counsel in multidistrict litigation against Trans Union. The litigation focused on Trans Union's use of its vast database of financial information, which includes the confidential financial information of most adults in the United States, to create and sell "target marketing" lists to advertisers in violation of the FCRA. After nearly a decade of litigation the case resulted in a settlement with Trans Union valued at more than \$100 million (including \$75 million in cash). The settlement obtained final approval from the Hon. Robert Gettleman on September 17, 2008. In August 2009, all appeals of the order approving the settlement were dismissed and the settlement became final. Pursuant to the terms of the settlement, credit monitoring relief was distributed to class members as well as a cash payment to class members. We believe the Trans Union certified class is the largest class of individuals ever certified in the United States.

- Counsel in *Elder v. Schwan Foods* (individual exemption misclassification) tried to a jury verdict in the Los Angeles Superior Court. First Appeal: On May 12, 2011, the California Court of Appeal reversed a trial court order that failed to award restitution and penalties following a jury verdict in favor of our client. The Court of Appeal ordered the trial court to reconsider the equitable remedies of restitution and civil penalties. Second Appeal: On February 27, 2013, the employer contended it was deprived of its right to a statement of decision because the trial court did not issue a tentative decision. The Court of Appeal rejected the employer's appeal finding both that there was no prejudicial error and there was sufficient evidence in the record to award restitution and civil penalties for violation of California's overtime laws.

- 1 • Counsel in the matter *Roberto Martinez et al. v. Joe's Crab Shack Holdings et al.*, 231
2 Cal.App.4th 362 (2014) where the Court of Appeal reversed the trial court's denial of class
3 certification in an executive misclassification case.
- 4 • Co-counsel in cases against Home Depot and 99 Cent Only Stores where the trial
5 courts limited the California Private Attorney General Act (PAGA) only to claims under the
6 Labor Code and not to claims under the IWC Wage Orders. In both cases the Courts of
7 Appeal reversed in published decisions. See *Home Depot v. Superior Court* (2011) 191
8 Cal.App.4th 210 (review denied March 16, 2011) (holding PAGA applicable to seating
9 claims on grounds that Labor Code §1198 incorporates IWC Wage Order protections); *Bright*
10 *v. 99 Cents Only Stores* (2010) 189 Cal.App.4th 1472 (review denied February 16, 2011)
11 (same).
- 12 • Co-counsel in a PAGA action against Bank of America on behalf of California bank
13 tellers. The case was twice dismissed by Judge Real. Judge Real's orders were both reversed
14 by the Ninth Circuit – *Green v. Bank of America, N.A.* (9th Cir. 2013) __ Fed. Appx., 2013
15 WL _____ and *Green v. Bank of America, N.A.* (9th Cir. 2015) 634 Fed.Appx. 188. On
16 remand the Ninth Circuit removed the case from the docket of Judge Real and re-assigned the
17 case to Judge Percy Anderson.
- 18 • Class counsel in the certified class action *Hall v. Rite Aid Corporation* in San Diego
19 County Superior Court. In 2014 the Fourth District Court of Appeal reversed the trial court's
20 decertification order. See, *Hall v. Rite Aid Corporation*, 226 Cal.App.4th 278 (2014, review
21 denied August 27, 2014). The case settled for \$18M on the day of trial.
- 22 • I was co-counsel in litigation against Wal-Mart, JPMorgan Chase Bank and CVS
23 Pharmacy Inc. (*Henderson v. JPMorgan Chase Bank* (C.D. Cal.), No. 2:11-CV-03428),
24 *Brown v. Wal-Mart, Inc.* (N.D. Cal.), No. 5:09-cv-03339-EJD, and *Kilby v. CVS Pharmacy,*
25 *Inc.* (S.D. Cal.), No. 09-CV-2051-MMA. The district court in *Wal-Mart* granted class
26 certification based on plaintiffs' construction of the law, while the district courts in *CVS* and
27 *JPMorgan Chase* denied class certification after rejecting plaintiffs' construction of the same
28 law. All three cases were then appealed and coordinated before the Ninth Circuit in
December 2013. The Ninth Circuit panel asked the California Supreme Court to accept

1 certification of three questions of statutory construction (739 F.3d 1192). More than two
2 years later, after extensive briefing by the parties and *amici*, the California Supreme Court in
3 April 2016 issued its unanimous opinion in *Kilby* setting forth its definitive construction of
4 the law. *Kilby v. CVS* (2016) 63 Cal.4th 1. Based on this construction by the California
5 Supreme Court, the Ninth Circuit affirmed the grant of class certification in *Wal-Mart* (2016
6 WL 3212265) and reversed the district court orders in *CVS* and *JPMorgan Chase*. Wal-Mart
7 settled for \$65M.

8 3. Righetti Glugoski, P.C. acted as trial counsel in what we believe are the only four
9 class action overtime cases ever to have been tried under the quantitative executive
10 exemption standard articulated in *Ramirez v. Yosemite Water Company*, (1999) 20 Cal.4th
11 785. I was trial counsel in a class action tried in Los Angeles County Superior Court before
12 the Hon. J. Stephen Czulger, resulting in a finding that U-Haul had misclassified all
13 California salaried “General Managers” as exempt from overtime. I was also trial counsel in
14 a certified class action tried in San Diego County Superior Court before the Honorable
15 Patricia Cowett, resulting in a judgment finding that Party City had misclassified salaried
16 employees as exempt and an award of class wide damages, fees and costs. In the third case, I
17 was trial counsel in the *Sav-on* overtime litigation where, following remand after appeal, we
18 completed the first phase of trial before the Honorable Victoria G. Chaney in Los Angeles
19 County Superior Court (complex). The case was then settled before the second phase of
20 trial. In the fourth trial I was class counsel in a certified class action against Taco Bell
21 alleging that its restaurant general managers were misclassified as exempt under California
22 law. The case was tried in the San Diego County Superior Court before the Hon. Kevin
23 Enright and settled after four weeks of trial.

24 4. I was awarded the Daily Journal 2017 CLAY Award (“California Lawyer of the
25 Year”) for my work on suitable seating litigation. I was also honored as one of the Daily
26 Journal’s Top Labor & Employment Lawyers for 2017. I regularly speak on panels that
27 involve class action and employment issues such as trial methodology, class certification,
28 discovery and privacy issues, arbitration agreements and releases, mediation and settlement
and recent developments in the field. Speaking engagements are typically for organizations

1 such as the American Conference Institute, California Employment Lawyers Association,
2 Bridgeport CEB, Industrial Relations Association, and a wide range of Bar associations.

3 5. Over the years litigating these kinds of cases, we have developed a good deal of
4 appellate experience. It is quite common for our class action cases to traverse through the
5 appellate courts during the course of proceedings. We have also represented plaintiffs in
6 many other appellate court decisions in state and federal court and at the NLRB. Righetti
7 Glugoski also represents various amicus groups on occasion in court of appeal proceedings.
8 We have handled appeals throughout California and in the federal courts of the Ninth Circuit,
9 the Seventh Circuit, the Fourth Circuit and the Federal Circuit.

10 **HOURLY RATES**

11 6. I believe the fees being sought here are reasonable in light of the experience of
12 counsel, the contingent nature of the fee, the particular risks involved in litigating this case, the
13 amount and the quality of work performed.

14 7. I have become familiar with the market rates charged by attorneys in California.
15 I have obtained this familiarity in several ways, including: (1) Researching fee rates; (2)
16 Handling attorneys' fee litigation; (3) Discussing fees with other attorneys; (4) Reviewing
17 declarations regarding prevailing market rates in cases seeking fees; (5) Reviewing attorneys' fee
18 applications and court awards in other cases, as well as (6) Reviewing surveys and articles in
19 legal newspapers and treatises on attorney's fees.

20 8. In my experience fee awards are almost always determined based on current
21 rates, such as the attorney's rate at the time a motion for fees is made rather than the historical
22 rate at the time the work was performed.

23 9. Litigating a case against a corporate defendant, represented by the two defense
24 firms defending this case, is not appealing to most lawyers. Heightening the risk is the fact that
25 the plaintiffs' lawyers are called upon to finance the litigation. It is not a cause undertaken
26 lightly.

27 10. One difficulty in determining the hourly rate of attorneys of similar skill and
28 experience in the relevant community is the scarcity of hourly fee-paying clients in wage and

1 hour litigation. As a practical matter, few individual employees can afford to pay attorney fees
2 on an hourly basis. This was certainly the case with Plaintiff. As a result, retainer agreements
3 we negotiate with individual clients, as in the case here, are typically based upon a contingency
4 fee relationship. In contrast, corporate defendants typically pay their attorneys on an hourly
5 basis.

6 11. I am knowledgeable about the hourly rates charged by attorneys of varying
7 degrees of experience. In the course of my fees practice, I have reviewed the hourly rates of
8 dozens of law firms in California and elsewhere. I am also familiar with the hourly rates
9 awarded in many other fees cases by state and federal courts in California and throughout the
10 country. In addition, I have reviewed many published surveys of attorneys' billing rates. For
11 example, *four years ago* the rates charged by attorneys at Sidley Austin (a large defense firm
12 similar to Alston & Bird) for class action litigation was between \$925-\$1000 for partners and
13 \$905-\$540 for associates. Attached hereto (Exhibit 1) is a true and correct copy of the 2018
14 Sidley Austin hourly fee/rate sheet showing Southern California rates.

15 12. The work in this case was taken on a contingency fee basis where we advanced
16 all time and costs. The subject matter involved California wage and hour laws. This is a
17 difficult area of law based on overlapping state and federal statutes and agency interpretations.
18 Work of this type requires specialized learning, experience, and the willingness to take large
19 risks. Working with both Reuben Nathan and Aequitas Law Group, we attempted to efficiently
20 litigate the claims in this matter using a high level of skill in the difficult questions that arose in
21 this case.

22 13. A practice like ours can only properly litigate so many cases at one time. There
23 is no question that we were required to assign out work in other cases in order to meet the
24 demands of this case.

25 14. My current hourly rate is \$1,050.00. My rate is on par with the *2018* rates of
26 \$925-\$1000 charged by attorneys with similar experience and qualifications who represent
27
28

1 commercial and other full-rate clients on an hourly basis. See, e.g., the 2018 Sidley Austin rate
2 sheet referenced above. We bill the time for paralegal work at \$225/hr.

3 15. The hourly rates charged by Righetti Glugoski, P.C. are supported by our
4 specialized experience and have been approved by other courts. I believe the rates set forth in
5 the fee application are fully consistent with the market rate for attorneys with comparable
6 expertise, experience and qualifications.

7 16. I am aware of hourly rates (or their historical equivalents) for other plaintiff
8 counsel approved by courts, including in *Carrillo v. Schneider Logistics Transloading &*
9 *Distribution, Inc., et al.*, No. CV 11-8557 CAS (DTBx) (C.D. Cal.) (September 24, 2015 order
10 approving 2015 rates of \$895/hr for partners, \$775/hr for a 1994 law graduate, \$650/hr for a
11 2000 law graduate, \$630/hr for a 2001 law graduate, \$550/hr for a 2004 law graduate, and
12 \$450/hr for a 2008 law graduate, and 2015 rates for Law Clerks (\$275/hr) and Paralegals
13 (\$250/hr)); *Brooks v. U.S. Bank, N.A.*, Case No. C12-4935-EMC (N.D. Cal) (June 16, 2014
14 order approving 2014 rate of \$895/hr for partner, and 2014 rates of \$775/hr for a 1992 law
15 graduate, \$610/hr for a 2001 law graduate, \$540/hr for a 2004 law graduate, \$275/hr for law
16 clerks, and \$250/hr for paralegals); *Luquetta v. Regents of the University of California*, Case
17 No. CGC-05-443007 (San Francisco County Superior Court) (October 31, 2012 Order
18 approving 2012 rate of \$850/hr for partner, and 2012 rates of \$700/hr for a 1994 law graduate,
19 \$570/hr for a 2000 law school graduate, \$250/hr for law clerks, and \$215/hr for paralegals);
20 *Vasquez v. State of California*, Case No. GIC 740832 (San Diego County Superior Court)
21 (October 1, 2012 Order approving 2012 rate of \$850/hr for partner in civil rights case and 2012
22 rate of \$375/hr for 2008 law school graduate); *Div 15 Tech v. Sheet Metal Workers'*
23 *International Association, Local 104*, Case Nos. No. C 10-05309 JSW, C 10-05312 JSW
24 (approving 2011 rates, including \$545/hr for 2000 law school graduate and \$215/hr for
25 paralegals); *Air Line Pilots Ass'n Int'l v. United Airlines, Inc.*, CGC-07-468937 (JAMS Ref.
26 No. 1100061566) (San Francisco County Super. Ct.) (2011 rates of \$825/hr (partner)); *Zalua v.*
27

1 *Tempo Research Corp.*, BC319156 (Los Angeles County Super. Ct.) (2011 rates of \$825/hr
2 (partner).

3 17. In the course of my practice, I have reviewed the hourly rates of dozens of law
4 firms in California and elsewhere. The rates in this fee application are consistent with the
5 market rates for comparably qualified and experienced counsel handling similar civil litigation.

6 **LITIGATION EFFORTS**

7 18. In the instant case, Defendants strongly denied liability and contended that they
8 had meritorious affirmative defenses on both procedural and substantive grounds.

9 19. The prosecution of this class action case involved a significant financial risk
10 because Class Counsel took this case on a pure contingency basis (meaning no guarantee of
11 ever being paid, if the case is lost), at the same time advancing all litigation costs out of their
12 own pockets, while incurring ongoing costs of paying overhead and salaries of employees who
13 are working on this case.

14 20. In preparing this fee application, I reviewed the firm's time records, files and
15 emails. Based on my review of these records, I can attest that all of the time set forth was
16 reasonably devoted to pursuing the Plaintiff's interests and otherwise would have been billed
17 to a fee-paying client. To calculate the lodestar for the time spent on this case, I personally
18 reviewed and summarized the billing records incurred in prosecuting the matter. I eliminated
19 time entries that could be considered duplicative or inefficient. Righetti Glugoski's time
20 records are detailed in the following categories:

Work Categories	Matthew Righetti Hours
1. Case Investigation and Legal Research; Interview witnesses	2.0.
2. Discovery / Communications with Defense Counsel	12.6
3. Document/Data Review and Analysis	16.5
4. Case Management	8.7
5. Pleadings / Hearings and Motion Practice	14.0

6. Settlement	12.4
TOTAL TIME	66.2
Hourly Rate	\$1050.00
LODESTAR	\$69,510

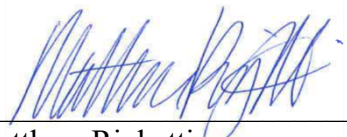
21. The amount of time spent on this case is reasonable given the complexity and novelty of the issues involved, the vigorous defense provided by Defense Counsel, the length and intensity of the litigation, and the results obtained. Since its inception, Plaintiffs faced a phalanx of defenses as outlined in Defendant's Answer. Class Counsel litigated this action with skill and efficiency reflecting the amount of work required to achieve the settlement. Once the settlement was consummated our work has not stopped. We continue to field inquiries from Class Members about the status of the case and their participation in the settlement. We also expect to work closely with the court appointed notice administrator to assure that notice is provided consistent with this Court's orders and due process. We intend to promptly respond to all Class Member inquiries and we intend to continue our work until all responsibilities are discharged and all funds are dispersed.

22. I have reviewed the time and cost summaries submitted to the Court in the declarations of Mr. Nathan and Mr. Glugoski. I attest to the amount of work performed by these gentlemen and the work performed to be of high quality and professional standards.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 20th day of October, 2023 at San Francisco, California.

RIGHETTI GLUGOSKI, P.C.

By:


Matthew Righetti
Class Counsel