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individually and on behalf of similarly situated employees

**SUPERIOR COURT OF CALIFORNIA**

**FOR THE COUNTY OF SACRAMENTO**

ARNOLD SERRANO, individually and on  
behalf of all other similarly situated  
employees,

Plaintiff,

vs.

COOL TIME, LLC, a California Corporation;  
and DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00312356**

*Assigned for All Purposes to Hon. Lauri A. Damrell,  
Department 28*

**CLASS ACTION**

**DECLARATION OF JUSTIN P. RODRIGUEZ  
IN SUPPORT OF PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

Reservation No. 2708254

Date: March 17, 2023

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: December 8, 2021

FAC Filed: February 10, 2022

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of  
3 California and an attorney of record for Plaintiff Arnold Serrano ("Plaintiff") herein. I am making this  
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff's  
5 Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion"). A true and  
6 correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release  
7 ("Agreement") in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff's contention  
9 that Defendant Cool Time, LLC, ("Defendant") violated California law by 1) failing to pay overtime  
10 wages, 2) failing to pay minimum wages, 3) failing to provide meal periods, 4) failing to provide rest  
11 periods, 5) failing to provide accurate wage statements, 6) failing to timely pay all final wages, 7)  
12 failing to reimburse employees for incurred expenses, and 8) by engaging in unfair competition.  
13 Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act ("PAGA").  
14 These claims were based allegations that Defendant violated California law by 1) failing to pay  
15 minimum wages for off-the-clock work, 2) failing to pay overtime wages for off-the-clock-work, 3)  
16 failing to properly record and pay for all hours worked, 4) by failing to pay for being on-call, 5) failing  
17 to authorize and permit timely and uninterrupted meal periods, 6) failing to authorize and permit timely  
18 and uninterrupted rest periods, and failing to pay for reimbursement for mileage, cell phone use, and  
19 other work related incurred expenses. The PAGA, waiting time penalty, wage statement violation, and  
20 unfair competition claims also derive from these violations.

21 3. Plaintiff is the only named representative in this matter. From our initial investigations  
22 of Plaintiff's claims and documents, we believed these claims had merit and could be maintained as a  
23 class action. We filed the action on or about December 8, 2021. Plaintiff exhausted administrative  
24 remedies through the Labor and Workforce Development Agency ("LWDA") prior to amending the  
25 Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on November 11, 2021,  
26 setting forth the facts and theories of liability. A true and correct copy of the notice filed with the  
27 LWDA is being filed with this Motion as Exhibit C. A copy of the notice was also sent to Defendant  
28 via certified mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no

1 response by the LWDA regarding its intent to investigate the claims alleged in Plaintiff's notice for  
2 more than 65 days. As such, Plaintiff became authorized to commence a civil action under the PAGA  
3 and filed a First Amended Complaint on February 10, 2022. A true and correct copy of Plaintiff's  
4 operative Complaint is filed with this Motion as Exhibit B. A copy of the Complaint was uploaded to  
5 the LWDA on March 8, 2022, after we received an endorsed copy back from Court.

6 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

7 5. Defendant is represented in this matter by Medina McKelvey LLP. From the beginning,  
8 Defendant has contested the merits of this case, the suitability of the case for class action or  
9 representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a violation  
10 in each pay period for each employee among other defenses and contentions they made challenging the  
11 propriety of this action. Defendant further contended, even assuming there was a finding supporting  
12 the imposition of PAGA penalties, that the Court would likely exercise its discretion to substantially  
13 reduce any such penalties owed based on evidence of good faith attempts to comply with California  
14 Labor Code obligations by Defendant. Notwithstanding its agreement to settle this matter, Defendant  
15 believe the practices Plaintiff is contending are unlawful either do not exist or, to the extent they do  
16 exist, fully comply with all state and federal employment laws with respect to Plaintiff and Class  
17 Members. Also, Defendant has contended that this matter is not appropriate for class certification  
18 outside of this proposed class settlement.

19 6. Based on the expected testimony from Plaintiff and Class Members, a review of  
20 Defendant's employee handbook, policies and procedures, and other documents relating to the alleged  
21 claims, information on the number of Class Members, Class Members' dates of employment, and a  
22 representative 25% sample of Class Members' payroll data, the scope of the potential damages to  
23 Plaintiff and Class Members in light of the claims alleged, the uncertainty in the law with regard to  
24 certification, and the negotiations that have taken place, I am convinced that the proposed settlement is  
25 in the best interest of the class. The length and risks of trial and other normal perils of litigation that  
26 impact the value of the claims were also considered and weighed in reaching the Agreement. In  
27 addition, I carefully considered the prospect of potential class certification issues as well as the  
28 uncertainty of class certification, the difficulties of complex litigation, and the lengthy process of

1 establishing specific damages and various possible delays and appeals in agreeing to the proposed  
2 settlement. I further considered the fact that penalties under the PAGA could be substantially cut at the  
3 discretion of the Court even if Plaintiff was successful on proving those claims and there was risk that a  
4 Court could find no willfulness in the failure to pay wages at separation, which would eliminate the  
5 value of the waiting time penalty claim entirely. Overall, I believe it is more beneficial to secure a  
6 guaranteed benefit to the class now rather than to proceed with litigation and potentially obtain zero  
7 funds to the class due to legal or factual issues in the case.

8         7. My office, including my partner, Galen T. Shimoda, my associate, Renald Konini, our  
9 paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the claims  
10 and potential damages for such claims. The parties engaged in informal discovery and exchange of  
11 documents, including a representative 25% sampling of employee payroll data and timecards and  
12 relevant policies for the entirety of the statute of limitations applicable to the alleged claims. Several  
13 hundred pages of documents, including wage statements, employee onboarding documents, employee  
14 policy and handbooks, employment agreements, timecards, text messages, arbitration agreements, and  
15 emails were reviewed. We also interviewed several individuals, including putative class members,  
16 regarding the claims to get a better understanding of the actual working conditions compared to the  
17 allegations being made in this lawsuit. The discovery covered all aspects of the asserted claims,  
18 including certification issues, merits issues, damages, the scope and configuration of Class Members, the  
19 content and implementation of the wage and hour policies at issue, issues relating to manageability  
20 concerns at trial, among other relevant areas. From this production we were able to determine  
21 information critical to a reliable damages analysis such as the average hourly rate, average daily hours  
22 worked, the number of total pay periods and workweeks, the number of pay periods within the penalty  
23 statute of limitations, the frequency with which violations occurred in a given week and/or pay period,  
24 and the number of former employees. This information allowed my office to assess both liability and  
25 damages and create an accurate damages model. Plaintiff assisted in all aspects of this litigation  
26 including providing factual information relating to Plaintiff's and Class Members' employment  
27 conditions at multiple job sites, providing a substantial number of documents, and answering questions  
28 regarding Defendant's factual contentions in this matter. This was important because it directly related

1 to our ability to maintain this case as a class action and our ability to obtain a favorable settlement for  
2 the class.

3 8. Throughout this litigation our office had numerous communications with Defendant's  
4 Counsel discussing our respective positions. It was only after approximately seventeen (17) months of  
5 extensive investigation, litigation, and arm's length negotiations that the parties were able to reach a  
6 settlement. Although the case was filed in December 2021, our pre-filing investigation began in August  
7 2021, when we first met with Plaintiff and began the review and discussion of the claims. We continued  
8 to investigate the claims from that point, which ultimately led to the filing of this lawsuit in December  
9 2021. The negotiations with Defendants counsel were at all times adversarial, though still professional  
10 in nature.

11 9. The following represents the potential maximum recovery for each of Plaintiff's claims  
12 based on my office's analysis of Defendant's relevant policies and the data produced by Defendant,  
13 including a sample of time and payroll records for Class Members. Of note is the fact that Defendant  
14 contended approximately 30 Class Members signed arbitration agreements more than 1,000 of the total  
15 2,339 workweeks during the Class Period. The enforceability of those agreements and the impact that  
16 *Viking River Cruises, Inc. v. Moriana*, 142 S. Ct. 1906 (2022) would have on this litigation was a large  
17 point of contention. Although we argued the agreements would be deemed unenforceable and, at any  
18 rate, a PAGA action would continue notwithstanding any arbitration, there was a substantial risk that a  
19 Court could find against Plaintiff on these matters and, potentially, end the class aspect of this case  
20 entirely. The data exchange also showed there were 785 PAGA pay periods and an average base  
21 hourly rate of \$17.35. An exposure analysis for the asserted claims is as follows:

- 22 a) Unpaid Minimum Wages Based on Off the Clock Work: This claim is based on  
23 allegations that Defendant only paid Plaintiff eight (8) hours a day and forty (40) hours  
24 per week regardless of how many hours they actually worked, including time spent  
25 working on weekends or on call beyond the standard workday. The maximum possible  
26 damages for this claim is \$141,509.50, which is entirely comprised of liquidated  
27 damages under California Labor Code section 1194.2. Plaintiff is only claiming  
28 liquidated damages under this claim because Plaintiff has also assumed that all unpaid

1 hours qualified for overtime compensation. Thus, only liquidated damages are claimed  
2 to avoid double recovery of substantive wage loss. This amount does not take into  
3 account any potential risks with respect to Plaintiff proving the merits or damages. The  
4 company handbook contained written policies directing employees to accurately record  
5 all hours worked and prohibiting off the clock work. Additionally, there were several  
6 instances in which Plaintiff was paid overtime and substantial disputes regarding the  
7 meaning of personnel memos and whether or not they were indicating the existence of  
8 unpaid hours worked or alleged violations of company wage and hour policies. These  
9 issues cause substantial risk for the claim and it is possible a Court would find that they  
10 supported a good faith defense, which entirely wipes out a claim for liquidated damages.  
11 See Cal. Lab. Code § 1194.2(b). Taking these factors into account, it is more realistic  
12 that there would not be any recovery for this claim.

- 13 b) Unpaid Overtime Wages Based on Off the Clock Work: This claim is based on the  
14 same facts as the minimum wage claim described above, and, therefore, subject to the  
15 same risks outlined above. The maximum possible damages for this claim is  
16 \$304,362.38. This amount does not take into account any potential risks with respect to  
17 Plaintiff proving the merits or damages. For example, in addition to the issues cited  
18 above regarding the minimum wage claims, Plaintiff would be put in the position of  
19 having to prove that Defendant had a practice to violate its own policy regarding off the  
20 clock work and accurate recording of hours. This presents substantial risk that the Court  
21 would find individual issues predominate because inquiry as to why class members did  
22 not record all their time and/or whether they actually had to work off the clock may have  
23 to be made. Furthermore, Plaintiff would have to show that Defendant to knew or had  
24 reason to know hours were being worked in order to be liable. See *Brinker Rest. Corp.*  
25 *v. Superior Ct.*, 53 Cal.4th 1004, 1051 (2012). While Plaintiff contended the existence  
26 of writings and emails showed off the clock hours were worked, there remained the  
27 issue of proving exactly how many hours were worked. Plaintiff's calculations are  
28 based on being able to consistently prove 5 unpaid hours worked per week, per

employee, for the entirety of their employment. It is unlikely that such a finding would be made at trial. Taking these factors into account, a more realistic range of recovery for this claim is \$60,872.48 to \$121,744.95.

c) Meal Periods: This claim was based on allegations that Defendant's managers, supervisors, and tenants regularly interrupted Plaintiff's and Class Members ability to take their full, 30 minute meal periods. The maximum exposure for this claim is \$101,454.13. This amount does not take into account any potential risks associated with this claim, which was heavily disputed. While Plaintiffs contended that Defendants maintained a regular and consistent practice of failing to provide meal periods due to lack of adequate scheduling, lack of coverage, and off the clock work assignments, Defendant had a facially valid written meal period policy that was given to Class Members at the time of hire. Based on Plaintiff's own allegations, the failure to have full meal periods only occurred 50% of the time. The existence of the facially valid policy and the variance in the number of violations presents substantial risk to this claim being able to proceed as a class action. Taking these factors into account, a more realistic range of recovery for this claim is \$30,436.24 to \$50,727.06.

d) Rest Breaks: This claim was based on the same allegations as the meal period claim and was subject to the same risks. Because underlying facts that precluded Plaintiff and Class Members from taking meal periods were the same facts as those precluding Plaintiff and Class Members from taking rest periods, this claim had the same violation frequency rate (*i.e.* 50%). As such, the realistic range of recovery for this claim is similar to the meal period claim, \$30,436.24 to \$50,727.06.

e) Reimbursement: This claim was based on Plaintiff's contention that he and Class Members were required to communicate using their personal cell phone and travel using their personal vehicle between multiple of Defendant sites and run errands as part of their regular and necessary work duties. Because Defendant did provide some reimbursement for mileage, this issue with that claim was whether the amount provided was sufficient, which created certification risks for those claims. Additionally, it

became apparent though the informal discovery that not all Class Members traveled and, when they did, the frequency was much lower than initially expected and for smaller distances. Thus, the mileage claim had nominal value and substantial certification risks. The cell phone reimbursement claim was much stronger and drove the discussion and analysis of the reimbursement claim. However, the amounts at issue given the average phone bill and percentage of work use rendered the maximum exposure for this claim to be approximately \$32,386.15. Notwithstanding this being the stronger of the two reimbursement theories of liability, it still suffered from substantial risks. Because of the nature of the work, many Class Members lived on Defendant's residential properties, which had an abundance of hardline phones for potential use. There was risk that a Court may find the availability of alternatives meant the use of personal cell phones was unnecessary and, therefore, not subject to reimbursement. Thus, the more realistic range of recovery is \$16,193.08 to \$25,908.92.

- f) Wage Statement Violations: This claim is derivative of Plaintiffs' overtime, minimum wage, and meal and rest period claims. The maximum exposure for this claim is \$39,250, which is calculated based on an initial violation \$50 per pay period per employee. Based on our research, we did not find any prior Labor Commissioner or court decisions that stated Defendant's practices and/or policies were improper. As such, a "subsequent violation" may not be found for penalty calculation purposes and the exposure analysis here is based on an "initial violation" valuation being adopted by any fact finder if this matter went to trial. This amount does not take into account the potential risks associated with this claim and assumes a violation in every pay period. Because this claim is derivative of Plaintiff's other claims, the same risks identified above for Plaintiff's minimum wages, overtime, meal period, and rest period claims equally apply here, substantially affecting the potential value of this claim. Taking these factors into account, a more realistic range of recovery for this claim is \$11,775 to \$19,625.00.

- 1           g)     Waiting Time Penalties: This claim is derivative of the minimum wage, overtime and  
2 meal and rest period claims above. The maximum exposure for this claim is \$179,052.  
3 However, this amount does not take into account the potential risks associated with this  
4 claim. Because this claim is derivative, the same risks mentioned above also apply to  
5 this claim. Similar to the liquidated damages for minimum wage violations, there is a  
6 good faith dispute defense to waiting time penalty claims. *See Diaz v. Grill Concepts*  
7 *Servs., Inc.*, 23 Cal.App.5th 859, 868 (2018). Based on the facts of this case, it is more  
8 realistic that there would not be any recovery for this claim.
- 9           h)     PAGA: This claim is derivative of the Labor Code violations identified above and would  
10 be subject to all the same risks as the underlying claims it is based on. As noted above,  
11 we did not find any prior Labor Commissioner or court decisions that stated Defendant's  
12 practices and/or policies were improper. Thus, a “subsequent violation” may not be  
13 found for penalty calculation purposes, and the exposure analysis here is based on an  
14 “initial violation” valuation being adopted by any fact finder if this matter went to trial.  
15 *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207-1209 (2008). The  
16 maximum total exposure for this claim is \$557,674. This amount does not take into  
17 account any of the risks in proving the merits of the underlying claims that the PAGA  
18 damages are based on. As outlined above, there are substantial risks to the claims and it  
19 is unlikely that recovery would be provided for several of the asserted claims let alone  
20 100% of the potential available penalty. Beyond the risks on the merits, the correct  
21 valuation of civil penalty amounts for certain claims under PAGA were in dispute. For  
22 example, the calculation valued civil penalties for failure to pay final wages under Labor  
23 Code section 256 (which provides the civil penalty amount will not exceed 30 days’ pay  
24 as waiting time under the terms of Section 203) for a total of \$104,424 instead of the  
25 \$100 per violation default penalty under Labor Code 2699(f), which results in a  
26 reduction to \$1,000 for this claim. Similarly, the calculation valued civil penalties for  
27 wage statement violations under Labor Code section 226.3 (which provides the civil  
28 penalty amount is \$250 per violation) for a total of \$196,250 instead of the \$100 per

1 violation default penalty under Labor Code 2699(f), which results in a reduction to  
2 \$78,500. In addition to the risks on the merits and disputes regarding the proper  
3 valuation of the penalty amounts, I believe the Court may exercise its discretion to  
4 reduce PAGA penalties because a majority of the civil penalties sought would be in  
5 addition to amounts owed for substantive violations, some of the violations are due to  
6 technical non-compliance with the Labor Code, such as derivative wage statement  
7 violations, and Defendant produced legally compliant policies among other documents,  
8 that a Court may find demonstrates a good faith attempt at compliance. Courts are  
9 statutorily authorized to use discretion to reduce penalties and the range of discretion  
10 used varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203  
11 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S.  
12 DIST. LEXIS 154590, \*9 (C.D. Cal. 2011) (82% reduction). The 82% reduction  
13 equates to roughly \$9-\$50 worth of civil penalties per pay period per employee  
14 depending on the total potential value of the civil penalty (*i.e.* \$50-\$250), which is more  
15 in line with actual awards based on my experience and review of awards in other cases.  
16 Thus, even if using the maximum values possible and setting aside risks of proving the  
17 claims on the merits, the total exposure may be cut to approximately \$100,381.32 (82%  
18 reduction) to \$167,302.2 (30%) or lower. Using the lower, disputed PAGA penalty  
19 values for those claims where some recovery is still likely would lower the potential  
20 exposure further from \$257,000.00 to \$46,260.00 (82% reduction) to \$179,900.00 (30%  
21 reduction). Given the substantial risks associated with the claims, we believe the  
22 amount that might ultimately be awarded under this claim would be significantly lower  
23 than our maximum exposure calculation. Allocating \$5,000 to the PAGA claims in this  
24 case is appropriate, especially in light of amounts that Courts have approved as  
25 reasonable valuations in other cases. *See Nordstrom Com. Cases*, 186 Cal.App.4th 576,  
26 589 (2010) (approving \$0 allocation to the resolution of PAGA claims based on their  
27 being disputed and being part of a class settlement which was evaluated based on the  
28 terms of the agreement overall); *Davis v. Cox Commc'ns California, LLC*, 2017 U.S.

1 Dist. LEXIS 63514, \*1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA  
2 allocation in \$275,000 settlement); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist.  
3 LEXIS 118764, \*6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000  
4 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, \*2 (S.D.  
5 Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v.*  
6 *Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, \*9 (N.D. Cal. 2009) (approving  
7 \$1,500 PAGA allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*,  
8 2012 U.S. Dist. LEXIS 160052, at \*7 (E.D. Cal. 2012) (approving \$10,000 PAGA  
9 allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL  
10 5941801, at \*14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000  
11 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at \*1 (N.D.  
12 Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9  
13 million common-fund settlement).

14 10. In summary, Plaintiff's gross recovery of \$105,000 under the Agreement equals  
15 approximately 7.21% of the maximum value of the claims in this matter and between 23.4% to 53.5%  
16 of the more realistic range of recovery. After deducting from the Gross Settlement Amount the  
17 proposed allocations for attorneys' fees and costs, any Enhancement Payment to the Class  
18 Representative, Settlement Administrator Costs, and the PAGA Payment to the LWDA, the net  
19 recovery under the Agreement (\$40,500.00) represents approximately 3% of the maximum value of the  
20 claims in this matter. The net recovery also represents between 9% and 21% of the more realistic range  
21 of recovery. The average net award is approximately \$547.30. I believe the Agreement represents a  
22 reasonable compromise of claims based on the legal and factual disputes in this case. The ability to  
23 secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than  
24 proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this  
25 Agreement.

26 11. In agreeing to represent Plaintiff and take on the case for all Class Members, our office  
27 agreed to take this case on a contingency basis, meaning that we would take a percentage of any  
28 settlement or judgment should we recover a monetary amount. We took a risk that we would not

1 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case  
2 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to  
3 make sure employees are able to find affordable representation in order to ensure that employers are  
4 complying with all their legal obligations towards employees and paying employees all their hard-  
5 earned wages.

6 12. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law  
7 practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I  
8 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the  
9 Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two  
10 recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the  
11 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris  
12 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at  
13 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my  
14 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the  
15 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from  
16 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*  
17 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar  
18 Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society  
19 and an officer for the Latino Law Students Association from 2009 to 2010.

20 13. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda  
21 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.  
22 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent  
23 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have  
24 been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number  
25 of seminars covering issues in wage and hour litigation in general and complex class and PAGA  
26 litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the  
27 Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class  
28 Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020);

(3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept. 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a Post-Viking River Cruises World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the Sacramento County Bar Association Labor and Employment Law Section's executive committee in 2019 and was the Chair of the executive committee for 2022. I have also been a member of the Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Barkhousen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-00271174 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);

- 1 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
- 2 Ct.);
- 3 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
- 4 Sup. Ct.);
- 5 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 6 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 7 Ct.);
- 8 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 9 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 10 00209613 (Sac. Sup. Ct.);
- 11 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 12 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-
- 13 00222101 (Sac. Sup. Ct.);
- 14 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 15 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 16 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 17 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 18 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 19 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.
- 20 Ct.);
- 21 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 22 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 23 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- 24 • *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 25 • *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- 26 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 27 • *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- 28 • *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);

- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.) ;
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

14. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

15. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of

1 plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda  
2 attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a  
3 B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the  
4 University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He  
5 graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and  
6 Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of  
7 employment law articles for journals and our firm regularly publishes articles on our firm's website.  
8 Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)  
9 Employment Review seminars from 2014 to the present. His speaking engagements include the  
10 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual  
11 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the  
12 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in  
13 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)  
14 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law  
15 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class  
16 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,  
17 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the  
18 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour  
19 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance  
20 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –  
21 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento  
22 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of  
23 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and  
24 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -  
25 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);  
26 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a  
27 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,  
28

1 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized  
2 as a Super Lawyer from 2014 to present.

3 16. Mr. Shimoda has practiced law in California since being admitted to the State Bar in  
4 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.  
5 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &  
6 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is  
7 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and  
8 Federal Courts, including up to certification, settlement, preliminary and final approval, and  
9 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.  
10 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel  
11 include the following:

- 12 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 13 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 14 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 15 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 16 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 17 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 18 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 19 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 20 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.  
21 Sup. Ct.);
- 22 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 23 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.  
24 Ct.);
- 25 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.  
26 Ct.);
- 27 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.  
28 Sup. Ct.);

- *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);

- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

17. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

18. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr. Konini graduated from Seton Hall University School of Law. Prior to moving to California, he practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of

individual and class action cases, including those involving wage and hour claims, Private Attorney General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing as an associate at my firm from approximately April 2019 to February 2021 and rejoined my firm in September 2022. Mr. Konini has worked on the written and oral discovery, including defending a PAGA representative's deposition, drafting special interrogatories and request for production of documents, calculating class-wide damages, communicating with class representatives, drafting mediation briefs, negotiating, drafting correspondence to defendants' counsel regarding the damages calculated per plaintiffs' claims against defendant companies, and more. Mr. Konini worked on other class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and Chemicals, Inc.*, Case No. 34-2018-00236898, *Carr v. Howroyd-Wright Employment Agency, Inc.*, Case No. 34-2018-00228290, *Gomez v. Vander Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-0003954, *Haggins v. Kelly Services, Inc.*, Case No. 34-2017-00220473, *Hussaini v. Integrated Resources, Inc.*, et al, Case No. 34-2021-00297152. Mr. Konini's practice largely revolves around wage and hour matters, including PAGA claims.

19. In connection with any final approval hearing, I will be seeking attorneys' fees and costs, an Enhancement Payment to the Class Representative, and Settlement Administrator Costs as set forth in the Agreement. I will be requesting attorneys' fees and costs pursuant to the common fund doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989). The facts and case law supporting the requested amounts will be set forth in the final approval motion, including information for the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount of time spent by Plaintiff on this case and any further risks and/or burdens incurred as a result of acting as Class Representative, an updated declaration in support of actual litigation costs and itemized cost spreadsheet, and declaration from the Settlement Administrator detailing the work performed and Settlement Administrator Costs incurred. My firm's expected costs through final approval are not expected to exceed \$4,000. Attached as Exhibit E is a true and correct copy of the costs incurred prior to the filing of this Motion and the

1 expected costs incurred through the final approval and fairness hearing. Any difference in the awarded  
2 fees and costs, Class Representative's Enhancement Payment, and Settlement Administrator Costs and  
3 the amounts allocated for each under the Agreement will be added back to the Net Settlement Amount  
4 and distributed pro rata to Class Members.

5 20. I have used several class action administrator companies in the wage and hour class  
6 actions I have resolved in the past and believe ILYM Group, Inc. will provide the best service to  
7 administer the proposed class settlement. ILYM Group, Inc. has provided a quote for the estimated  
8 maximum cost of administering the class settlement of approximately \$6,377.40. A true and correct  
9 copy of a cost estimate provided by ILYM Group, Inc. is filed with this Motion as Exhibit D. This is  
10 only an estimate, and final pricing may vary depending on the issues, if any, that arise during the  
11 administration of the settlement. However, the difference between the actual, lesser costs and \$10,000,  
12 if any, will be paid to the Participating Class Members on a pro rata basis.

13 21. The timing of the release is meant to place Class Members in the same position as if the  
14 case went to trial and Plaintiff was successful in proving the claims, resulting in a judgment. To the  
15 extent any issue arises with funding, we will be able to utilize the typical judgment enforcement  
16 mechanisms that are available to all judgment holders in the California Code of Civil Procedure. The  
17 other benefit of making the judgment and all items effective immediately is that, to the extent there  
18 might be any bankruptcy filed, the class claim against the bankruptcy estate would be for a liquidated,  
19 undisputed amount. Generally, this places the class claim ahead of other unsecured creditors for any  
20 potential distribution from the bankruptcy estate assets after liquidation or reorganization. Moreover,  
21 seeking enforcement of the settlement is the easiest and most practical if the only outstanding item to  
22 be performed in the contract is payment. It is to the benefit of Class Members for enforcement of the  
23 Agreement to be as straightforward as possible.

24 22. A copy of the Agreement and the entire Motion was submitted to the LWDA for review  
25 at the same time the Motion was submitted to the Court pursuant to California Labor Code section  
26 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were  
27 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as  
28 Exhibit G.

1           23.     A true and correct copy of the proposed Notice of Settlement is being filed with this  
2 Motion as Exhibit F.

3           24.     The designated *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. (“CPB”) and  
4 The Center For Workers Rights (“CFWR”). Only those funds that remain from uncashed settlement  
5 checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

6           25.     CPB is a 501(c)(3) nonprofit in good standing with the State of California that was  
7 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,  
8 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,  
9 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in  
10 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,  
11 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services  
12 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*  
13 *pres* funds from several jurisdictions in the State of California, including from Sacramento County  
14 Superior Court.

15           26.     If CPB is approved as a *cy pres* beneficiary, any funds received will be dedicated to the  
16 Employment Law Clinic and Advice Line project, which assists the indigent with legal matters related to  
17 their current or former employment. This assistance regularly includes, but is not limited to, free legal  
18 advice regarding claims for unpaid wages, failure to provide meal and rest periods, failure to pay  
19 reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance with legal  
20 forms, and direct representation in administrative hearings, including administrative hearings in front of  
21 the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic coordinator  
22 who provide assistance, along with experienced employment law attorney volunteers. These services  
23 have been a focus of the Employment Law Clinic and Advice Line project since its inception with VLSP  
24 and continuing through today under CPB.

25           27.     CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a  
26 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the  
27 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-  
28 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with

workers and advises them as to the available legal remedies. In addition to individual counseling on employment issues, the CFWR educates workers, unions, and community members about workplace laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

28. The CFWR provides limited representation for low-wage workers in wage claims before the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The CFWR helps workers navigate the wage claim process before the California Labor Commissioner through advice given at its legal consultation clinics and/or, in some cases, through representing workers in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated towards assisting low-wage workers with wage claims and enforcing the California Labor Code with respect to those wage claims.

29. I believe the services provided by CPB and the CFWR promote the law consistent with the objective of wage and hour class actions in general and in this case specifically.

30. I have spoken with every other attorney at my firm to determine whether they have any relationship with either of the proposed *cy pres* beneficiaries.

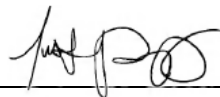
31. I have volunteered for both organizations numerous times over the past several years, either directly in the advice clinics or by presenting seminars on wage and hour laws for law students seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB’s advisory committee. These organizations are non-profits that assist low-income workers throughout California, giving free legal advice regarding employment law issues and representing employees with wage claims before the California Labor Commissioner. I have witnessed firsthand the quality service and attention these entities provide to individuals in need of employment law advice and representation at the California Labor Commissioner.

32. Brittany V. Berzin has never done any work, volunteer or otherwise, with CPB. During law school, Ms. Berzin was a student volunteer for the CFWR for two summers. Since graduating law school, she has volunteered for the CFWR approximately one to two times per year, assisting in the

1 advice clinic. Recently, Ms. Berzin volunteered to be on the Board of Directors and is currently the  
2 Chair, which is an unpaid position. As Chair, Ms. Berzin is one of seven Board Members, who are all  
3 from different law firms and/or local public and private organizations. The Executive Director of the  
4 CFWR controls the day-to-day operations of the CFWR, not Ms. Berzin or the Board of Directors.  
5 Furthermore, CFWR has not, and does not, provide any referrals to Shimoda & Rodriguez Law, P.C.

6 33. Galen T. Shimoda has volunteered for both organizations on and off over the past several  
7 years through either presenting wage and hour seminars to law students who staff the free advice clinics  
8 or helping at the advice clinics themselves. However, Mr. Shimoda has not performed any volunteer  
9 work with either organization since approximately March 2020. Mr. Shimoda has never received  
10 payment or compensation of any kind in connection with any work he's done with either of the proposed  
11 *cy pres* beneficiaries. Renald Konini has never done any work, volunteer or otherwise with Capital Pro  
12 Bono, Inc. or the Center For Workers' Rights. Neither my firm, myself, Mr. Konini, Ms. Berzin, nor  
13 Mr. Shimoda have ever received any compensation, direct or indirect, for designating CFWR or CPB as  
14 *cy pres* beneficiaries or in connection with any of the volunteer work we have done with the  
15 organizations.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
17 true and correct. Executed on February 21, 2023, in Sacramento, California.

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20 Justin P. Rodriguez  
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