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Attorneys for Plaintiff and the other Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ALEJANDRO RIVERA RAMIREZ and
MATILDE VALENCIA, individuals, on
behalf of themselves and others similarly
situated

PLAINTIFFS,

v.

S&E GOURMET CUTS, INC.; and
DOES 1 thru 50, inclusive,
DEFENDANTS.

Case No. CIVSB2201247

**DECLARATION OF SCOTT ERNEST
WHEELER IN SUPPORT OF MOTION FOR
APPROVAL OF SETTLEMENT PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT ("PAGA") SETTLEMENT**

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1 have been an Active Member in good standing continuously since then. I am also admitted to
2 practice in the United States District Courts for the Central, Northern and Eastern District of
3 California and the Ninth Circuit Court of Appeal and have tried cases in various courts
4 throughout the State of California.

5 7. In 2000, I founded the Law Office of Scott Ernest Wheeler in Claremont,
6 California. Since that time, I have been heavily, successfully, and continuously involved in
7 active wage and hour litigation and trial work in individual and class actions. I have handled
8 hundreds of employment litigation matters on behalf of employees for over twenty-six (26) years
9 and several years of class action and PAGA litigation experience.

10 8. My firm, the Law Office of Scott Ernest Wheeler, is actively and continuously
11 practicing in employment litigation, representing almost exclusively employee plaintiffs, in both
12 individual, representative and class actions, in this Superior Court, and other Superior Courts
13 throughout the State, and in various Federal courts. I have personally tried wage and hour claims.

14 9. In addition to litigating wage and hour individual matters, PAGA and class
15 actions, since 2013, I am also a part-time professor at Claremont Graduate University, in the
16 Division of Behavioral & Organizational Sciences, Department of Human Resources
17 Management, where I conduct a yearly six (6) week symposium in employment law. The
18 symposium provides a unique opportunity for graduate students to discuss employment law from
19 the plaintiff's perspective in addition to labor law compliance pursuant to federal and California
20 laws. I am also a guest speaker at the Eastern Bar Association of Los Angeles County providing
21 MCLE credit for discussions relating to employment law.

22 10. My office is qualified to handle this litigation since I am highly experienced in
23 litigating Labor Code violations in both individual and class action cases. My office has handled
24 and is currently litigating wage and hour class action lawsuits throughout the State of California.
25 Over the past several years, my office has successfully recovered substantial compensation on
26 behalf of employees.

27 11. My specific wage and hour class actions and PAGA litigation experience includes
28 the following:

<i>Jesus Martinez v. Sierra Vista Hospitality, LLC, et al.,</i>	Los Angeles Superior Court Case No.: BC 622 601 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Gisela Lopes v. Hirel Connectors, Inc.</i>	Los Angeles Superior Court Case No.: BC 550 139 Approved as class counsel and final approval granted.
<i>Aracely Ramirez v. Maple Hill Investments, et al.,</i>	Los Angeles Superior Court Case No.: BC 549 329 Approved as class counsel and final approval granted.
<i>Renee Morales v. OPARC</i>	San Bernardino Superior Court Case No.: CIVDS 1622051 Approved as class counsel and final approval granted.
<i>Michael Vinnitsky v. Worldwide Express, Inc., et al.,</i>	Los Angeles Superior Court Case No.: BC 655 314 Approved as class counsel and final approval granted.
<i>Luis Aguilar v. Hook Burger LLC</i>	Los Angeles Superior Court Case No.: BC 608 694 Approved as class counsel and final approval granted.
<i>Melissa Delgado v. Cienega Medical Spa, Inc., et al.,</i>	Los Angeles Superior Court Case No.: BC 637 702 Approved as class counsel and final approval granted.
<i>Lashon Hopper-Porter v. Desert Regional Medical Center, Inc.</i>	Riverside Superior Court Case No.: RIC 1610095 Approved as class counsel and final approval granted.
<i>Lynda Parada v. All Pro Plumbing, Inc., et al.,</i>	San Bernardino Superior Court Case No.: CIVDS 1703864 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Robert Backus v. Schireson Bros.,</i>	San Bernardino Superior Court Case No.: CIVDS 1809620 Approved as class counsel and final approval granted.
<i>Lida Matthews v. Red Hill County Club</i>	San Bernardino Superior Court Case No.: CIVDS 1706187 Approved as class counsel and final approval granted.
<i>Phil Romero v. CAMTRENT, LLC,</i>	Los Angeles Superior Court Case No.: 18STCV00098 Approved as class counsel and final approval granted.

<i>Alejandro Carrillo v. The Merchant of Tennis, Inc., et al.,</i>	Los Angeles Superior Court Case No.: BC 707 896 Approved as class counsel and final approval granted.
<i>Jose Ordonez v. JBD Partners, Inc.,</i>	Ventura Superior Court Case No.: 56-2019-00525487-CU-OE-VTA Approved as class counsel and final approval granted.
<i>Paul Fonseca v. Tasteful Selections, LLC, et al.</i>	Kern Superior Court Case No.: BCV-17-100791 Approved as class counsel and final approval granted.
<i>Martin Abelar v. American Residential Services, LLC.,</i>	United States District Court, Central District Case No.: 5:19-CV-00726-JAK(JPRx) Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Selina Machorro-Fernandez v. Tacos La Bufadora, LLC., et al.,</i>	San Bernardino Superior Court Case No.: CIVDS 1831535 Approved as class counsel and final approval granted.
<i>Dennis Vassell v. East Valley Glendora Hospital, LLC</i>	San Bernardino Superior Court Case No.: CIVDS 1821892 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Rafael Gomez v. Vitco Distributors, Inc.,</i>	San Bernardino Superior Court Case No.: CIVDS 1829683 Approved as class counsel and final approval granted.
<i>Marco Hurtado v. Citistaff Solutions, Inc., et al.,</i>	Los Angeles Superior Court Case No.: 19STCV02853 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Mikella Araujo v. Dealer Solution Service, Inc.,</i>	Los Angeles Superior Court Case No.: BC 720 944 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Lloyd Revels v. Bottling Group, LLC,</i>	Orange Superior Court Case No.: 30-2018-01031810-CU-OE-CXC Appointed as Co-Counsel and final approval granted.
<i>Charles Scott v. Kuehne + Nagel, Inc.,</i>	San Bernardino Superior Court Case No.: CIVDS 1707477 Appointed as Co-Counsel and final approval granted.
<i>April Velez v. Progressive Realty Partners, Inc.,</i>	Los Angeles Superior Court Case No.: 19STCV01065 Approved as class counsel and final

	approval granted.
<i>Jabian Garcia v. Satvinder Sroan, Inc., et al.,</i>	Los Angeles Superior Court Case No.: 18STCV08728 Approved as class counsel and final approval granted.
<i>Francisco Carrillo Felix v. The Material Supply, Inc.,</i>	San Bernardino Superior Court Case No.: CIVDS 2011692 Appointed as Co-Counsel and final approval granted.
<i>Marcelino Lopez v. G & M Mattress and Foam Corporation, Inc., (2020)</i>	Los Angeles Superior Court Case No.: 19STCV12174 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Alejandro Zamarripa v. Superior Talent Resources, Inc.,</i>	Orange Superior Court Case No.: 30-2019-01060339-CU-OE-CXC Approved as Co-Class Counsel and final approval granted.
<i>Patty Ruvalcaba v. EM KMR, LLC</i>	San Bernardino Superior Court Case No.: CIVDS 2008937 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>David Morrison v. Fair Restoration, Inc.</i>	Orange County Superior Court Case No.: 30-2020-01144774-CU-OE-CXC Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>David Salvi v. JCM Engineering</i>	San Bernardino Superior Court Case No.: CIVDS 2013973 Approved as Class Counsel and final approval granted.
<i>Nazario Perez v. Contera Construction</i>	Riverside Superior Court Case No.: RIC 2002575 Approved as Class Counsel and final approval granted.
<i>Jacqueline Lopez v. Eastern Los Angeles Regional Center, Inc.,</i>	Los Angeles Superior Court Case No.: 20STCV36703 Approved as Co-Class Counsel and final approval granted.
<i>Sarah Lewis v. Western Dental Wage and Hour Cases (Judicial Council Cordination Proceedings),</i>	Sacramento Superior Court Case No.: CIVDS 1917937 Approved as Co-Class Counsel and final approval granted.
<i>Kenneth Reising v. El Pollo Loco, Inc.,</i>	Los Angeles County Superior Court Case No.: 20STCV42951 Approved PAGA settlement and counsel for the Aggrieved Employees.
<i>Carmen Virginia Martinez v. Toll Global Forwarding, Simplified Staffing Labor Solutions, et al.,</i>	Los Angeles County Superior Court Case No.: 19STCV05288

	Approved PAGA settlement and counsel for Aggrieved Employees.
<i>Jose Gomez v. RABS, Inc.,</i>	San Bernardino Superior Court Case No.: CIVDS 2013897 Approved as Class Counsel and final approval granted.
<i>Tobon, Jose Vidal, et al., v. Sincere Orient Commerica Corporation,</i>	Los Angeles County Superior Court Case No.: 19STCV18256 Approved as Class-Counsel and final approval granted.
<i>Eugene Osko, et al. v. The Elite Group, et al.</i>	Los Angeles County Superior Court Case No.: 20STCV28718 Approved as Co-Class Counsel and final approval granted.
<i>Yessica Rodriguez v. California Payroll Group, Inc., et al.</i>	San Bernardino Superior court Case No.: CIVDS 1829017 Approved PAGA settlement and counsel for Aggrieved Employees.
<i>Rosa Ornales v. Mastercorp Commerical Services, LLC.,</i>	San Bernardino Superior Court Case No.: CIVSB 2114590 Approved as Class-Counsel and final approval granted.
<i>James Henriquez v. It's Caliber, et al., San Bernardino Superior Court</i>	San Bernardino Superior Court Case No.: CIVDS 2021000 Approved PAGA settlement and co- counsel for Aggrieved Employees.
<i>Victor Chavez Mata v. Preferred Pallets, Inc.,</i>	San Bernardino Superior Court Case No.: CIVSB 2115694 Approved PAGA settlement and counsel for Aggrieved Employees.
<i>Rosa Anguiano v. Tiger Logistics USA, Inc.</i>	Los Angeles Superior Court Case No.: 19STCV35203 Approved as Co-Class Counsel and final approval granted.
<i>Oscar Orellana v. Environment Control – Puente Hills, Inc., et al.,</i>	Los Angeles Superior Court Case No.: 21STCV41665 Approved PAGA settlement and appointed counsel for Aggrieved Employees.
<i>Jaiver Escobedo-Perez v. Harbor Pipe & Steel, Inc., et al.,</i>	Riverside Superior Court Case No.: RIC 2000503 Approved as Co-Class Counsel and final approval granted.
<i>Carolyn Tucker v. Loomis Armored USA, Inc.</i>	San Bernardino Superior Court Case No.: CIVDS1938721 Approved PAGA settlement and appointed counsel for Aggrieved Employees.
<i>Cindi Vazquez v. Blue Desert International, Inc.</i>	Riverside Superior Court Case No.: CVRI2103321

	Approved as Class Counsel and final approval granted.
<i>Maria Villegas v. Myoyo USA, Inc., et al.</i>	San Bernardino Superior Court Case No.: CIVDS2020848 Approved as Class Counsel and final approval granted.
<i>Salvador Gonzalez v. Sunny Slope Tree Farm, Inc.</i>	San Bernardino Superior Court Case No.: CIVSB2126147 Approved PAGA Settlement and appointed counsel for Aggrieved Employees
<i>Estefania Lopez v. Universal Card, Inc., et al.</i>	Orange County Superior Court Case No.: 30-2010-01199788 Approved as Class Counsel and final approval granted.
<i>Esteban Flores v. Skilled Staffing, Inc. and Smart Warehousing, LLC</i>	San Bernardino Superior Court Case No.: CIVSB2121280 Approved as Class Counsel and final approval granted.
<i>Ernesto Rivera-Galicia v. NP Mechanical, Inc.</i>	San Bernardino Superior Court Case Number: CIVSB2223483 Approved PAGA Settlement and counsel for Aggrieved Employees
<i>Brandon Fiore v. Beaumont Motorcycles, LLC</i>	Riverside Superior Court Case Number: CVRI2201946 Approved as Class Counsel and final approval granted.
<i>Elizabeth Moreno v. A.H. Restaurants</i>	San Bernardino Superior Court Case Number: CIVSB2134700 Approved as Class Counsel and preliminary approval granted.
<i>Gerardo Martinez v. Invapharm, Inc.</i>	San Bernardino Superior Court Case Number: CIVSB2133820 Approved as Class Counsel and preliminary approval granted.
<i>Maria Olivares v. Plaze, Inc. and BARON HR, Inc.</i>	San Bernardino Superior Court Case Number: CIVSB2124719 Approved as Class Counsel and preliminary approval granted.
<i>Angelica Hernandez v. A.P. Express, LLC, A.P. Express Worldwide, LLC, and DRE Workforce, Inc.</i>	Los Angeles Superior Court Case Number: 22STCV26081 Approved PAGA Settlement and counsel for aggrieved employees.
<i>Veronica Buenrostro-Flores v. Langer Juice Company, Inc.</i>	Los Angeles Superior Court Case Number: 21STCV01133 Approved PAGA Settlement and counsel for aggrieved employees.
<i>Nancy Anne Torres v. Amy's Kitchen, Inc.</i>	Sonoma Superior Court Case Number: SCV-27087

1		Approved PAGA Settlement and co-counsel for aggrieved employees.
2	<i>Cecilia Cholico v. Riley Family Enterprises, Inc.</i>	San Bernardino Superior Court Case Number: CIVSB2130458 Approved as Class Counsel and final approved granted.

12. Currently, I am litigating several other wage and hour class actions and PAGA suits throughout California.

THE REQUESTED ATTORNEYS' FEES AND COSTS

13. The PAGA authorizes an award of reasonable attorneys' and costs. See California Labor Code § 2699(g)(1).

14. Any fee award will be distributed as follows: 75% to Kingsley & Kingsley, APC, and 25% to Law Office of Scott Wheeler. Consistent with Rule 1.5.1 of the Cal. Rules of Prof. Conduct, Plaintiffs approved the fee agreement in writing at the initiation of the case and at the time the Parties agreed to Joint Representation. Counsel have expended considerable time and resources vigorously litigating this case on behalf of the L WDA and PAGA Employees. Under the Settlement, Plaintiff can request approval of up to \$91,666.67 in attorneys' fees. The requested fees are reasonable under the percentage of recovery analysis. The Court can and should utilize the percentage method in evaluating Plaintiff's request for attorneys' fees. Here, the requested attorneys' fees represent one-third of non-reversionary Gross Settlement Amount of \$275,000.

15. Since the inception of my practice, I oversee and have significant responsibilities. I am the firm's managing member and am responsible for all litigation decisions. For example, not only did I directly work on all of the day-to-day aspects of this litigation (such as conducting and reviewing informal discovery, drafting pleadings, etc.), I was also directly involved in all strategic decisions, including the decision that the Settlement in this case is in the best interest of the aggrieved employees.

16. In my experience, there is significant financial risk that I assume on behalf of my clients in litigating class and PAGA actions based upon the amount of time involved, the length of such actions and the delay in compensation between the time a class action may settle and final

1 distribution.

2 17. I personally have expended significant effort to achieve this result. My efforts
3 include but are not limited to the following general categories of work:

- 4 • Interviews with Plaintiff and review of documents provided by Plaintiff.
- 5 • Preparing informal discovery requests (formal requests were
6 not served after an agreement to informally exchange information was
7 agreed to).
- 8 • Conference and correspondence with Defendant's counsel.
- 9 • Manual review of hard copy employment records.
- 10 • Retaining and working with an expert to analyze electronic time and
11 payroll records.
- 12 • Legal research regarding Defendant's wage and hour practices.
- 13 • Research and preparation of a mediation brief.
- 14 • Attendance at a full-day mediation session.
- 15 • Negotiation and multiple revisions of the Settlement Agreement and
16 related settlement documents.
- 17 • Preparation and review of Stipulation to File Amended Complaint and
18 Review of amended PAGA Complaint.

19 18. My currently hourly rate is \$875.00. I have spent approximately 45.60 hours in
20 litigating this matter from the time my office was retained through the present. My office
21 lodestar totals \$39,900.

22 19. The substantial amount of time my office devoted to this litigation could have
23 been spent on other fee-generating work. Because my office undertook representation of this
24 matter on a contingency-fee basis, my office shouldered the risk of expending substantial costs
25 and time in litigating the action without any monetary gain in the event of an adverse judgment.

26 20. Although the settlement of this action occurred somewhat expeditiously, the
27 novelty and complexity of the action made this far from routine. From the outset of the action,
28 Defendants were aggressive and at different stages of this case, had two firms representing their
interests.

21. Counsel assumes a great deal of contingent risk in litigating wage and hour class

actions and PAGA actions. Counsel took this case on a contingent basis and has put a substantial amount of time and energy into litigating this case. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, my firm represents virtually all of its employment law clients on a contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or successfully settle our clients' cases. At the time my office decided to pursue this litigation, any monetary recovery was far from certain.

Litigation Costs

22. My office incurred the following reimbursable costs that were necessary to litigate this case. My itemized costs are as follows:

DATE	ITEM	COST
June 17, 2022	New PAGA Claim Filing Fee	\$75.00
June 17, 2022	United States Postal Service Service of New PAGA Claim to Defendants	\$8.56
December 12, 2022	San Bernardino Superior Court Filing Fee of Summons and Complaint	\$1,454.00
December 19, 2022	Attorney Service – Service Summons/Complaint	\$40.00
	Total	\$1,577.56

22. The costs in the amount of \$1,577.56 were reasonable and necessary to prosecute this action to a successful conclusion.

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

Executed on September 12, 2023, at Claremont, California.

LAW OFFICE OF SCOTT E. WHEELER

By:



Scott E. Wheeler

Attorney for Plaintiff and the Aggrieved Employees

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On September 18, 2023, I served all interested parties in this action the following documents described as: **DECLARATION OF SCOTT ERNEST WHEELER IN SUPPORT OF MOTION FOR APPROVAL OF SETTLEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT ("PAGA") SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

BUCHALTER

A Professional Corporation

Joshua Mizrahi

jmizrahi@buchalter.com

Graham G. Lambert

glambert@buchalter.com

1000 Wilshire Boulevard, Suite 1500

Los Angeles, CA 90017-1730

LAW OFFICES OF SCOTT ERNEST WHEELER

Scott Ernest Wheeler

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250 West First Street, Suite 216

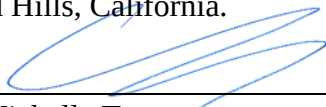
Claremont, California 91711

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] BY ELECTRONIC MAIL TRANSMISSION: I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 18, 2023, at Woodland Hills, California.


Michelle Tanzer