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JUAN RAMON TORRES REYES on behalf of himself
and all similarly aggrieved employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

JUAN RAMON TORRES REYES, on behalf
of himself and all similarly aggrieved
employees,

Plaintiff,

v.

MB LABOR CONTRACTING, INC.;
D'ARRIGO BROS. CO., OF CALIFORNIA;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV000682

**DECLARATION OF B. JAMES
FITZPATRICK IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 13, 2024

Time: 8:30 A.M.

Dept.: 14

Complaint Filed: March 11, 2022

Trial Date: None Set

1 I, B. James Fitzpatrick, hereby declare and state as follows:

2 1. I am an attorney duly admitted to practice in the State of California and am a
3 partner in the law firm of Fitzpatrick & Swanston, counsel of record for Plaintiff Juan Ramon
4 Torres Reyes (“Plaintiff”). I have personal knowledge of the facts set forth below and if called
5 to testify I could and would do so competently.

6 2. Class Counsel support the settlement as fair, reasonable, and adequate, and in the
7 best interest of the Settlement Class Members as a whole.

8 3. Class Counsel’s application for an award of attorneys’ fees in the amount of
9 \$55,761.31 and reimbursement of litigation costs in the amount of \$20,000.00 is reasonable
10 and fair. These amounts are well within what is reasonable and customary in both wage and
11 hour settlements and class action settlements in general and is based on the skill displayed by
12 Class Counsel, the effort and resources invested in this case by Class Counsel, the factual and
13 legal complexities of this case, the importance of the interests which are the subject of this
14 litigation, the risks undertaken by Class Counsel, and the degree of success achieved by Class
15 Counsel.

16 4. The Settlement Agreement was the product of negotiations between highly able
17 and experienced attorneys on both sides who possessed the relevant data and extensive
18 information which they had carefully analyzed. Over many years in highly contested litigation
19 the Parties engaged in extensive investigation and discovery, involving formal and informal
20 discovery, and in arm’s length negotiations at mediation with an experienced neutral that
21 resulted in the settlement.

22 5. Class Counsel engaged in extensive factual investigation before settling,
23 including the exchange of formal and informal discovery, involving propounding and
24 responding to formal written discovery, analyzing putative class member time and payroll
25 records, and reviewing Defendant’s pertinent payroll policies. This allowed Class Counsel to
26 conduct a full analysis of exposure.

27 6. There were no objections by Settlement Class Members to the amount of
28 attorneys’ fees or litigation costs. Furthermore, zero opt-outs were submitted. In light of this

1 overwhelmingly positive response from Settlement Class Members, an inference can be made
2 that the Settlement Class supports the Court's Preliminary Approval Order finding that the
3 Settlement Agreement is fair and reasonable.

4 7. The Settlement Agreement authorized Plaintiff to request a Class Representative
5 Service Award of \$2,500.00 for serving as the Class Representative. Plaintiff provided
6 significant assistance with the lawsuit, including providing information and documents to his
7 counsel, discussing the lawsuit with his counsel on multiple occasions, remaining available
8 during mediation, reviewing various documents, including the complaint, PAGA letter, his
9 respective declaration, and the Settlement Agreement.

10 8. Plaintiff has no interests adverse to the Settlement Class, nor have any such
11 issues been raised or presented. Plaintiff has taken all necessary steps to represent the interests
12 of the Settlement Class.

13 9. I am familiar with all aspects of this case and all tasks undertaken by the various
14 members of this firm in litigating this case. I have spent significant time pursuing the claims
15 that have been alleged in this action since the commencement of the case. I have been assisted
16 by attorney Laura L. Franklin and several paralegals in my office. As a result of my firm's
17 diligence in pursuing the factual and legal issues presented by this case, we were able to
18 realistically assess the Class Members' claims, evaluate their damages, and Defendant's
19 exposure. All work performed by our office is done on a contingency basis. Our firm has
20 received no compensation for the time invested or expenses incurred in litigating this case.
21 We have prosecuted this litigation up to this point, taking the risk that we ultimately would not
22 receive any compensation for our work. My office will have invested 117.2 hours on this
23 case, which includes anticipated future time. Attached hereto as **Exhibit A** is a detailed
24 summary of tasks and hours spent by this firm in litigating this case.

25 10. The hourly rate for attorneys in this firm is \$800.00 and the hourly rate for
26 paralegals is \$185.00. Since at least 2020, I have been approved at hourly rates of \$750.00
27 and \$800.00 per hour by various Courts, in several matters, including, in the matters entitled:
28 *Jose Antonio Ortiz Arrellano v. Rocha Brothers Farms, LLC*, Santa Cruz County Superior

1 Court, Case No. 21CV01286; *Sione Fuapau v. LHOIST North America of Arizona, Inc.*,
2 United States District Court, Northern District of California, Case No. 20-CV-04404-VKD;
3 *Sandra Lopez v. Motel 6 Operating, L.P.*, Ventura County Superior Court Case No. 56-2020-
4 00542312-CU-OE-VTA; *Christina Mendoza v. Planned Parenthood Mar Monte, Inc.*, Santa
5 Clara Superior Court, Case No. 18CV329544; *Javier Mendoza v. National Vision, Inc.*, United
6 States District Court, Northern District of California, Case No. 19-CV-01485-SVK; *Valarie*
7 *Murray v. Granite Wellness Centers*, Nevada County Superior Court, Case No. CU20-084680;
8 and *Nicolas Serafica v. HGST, Inc.*, Santa Clara County Superior Court Case No.
9 21CV386574.

10 11. In this motion, I request a reduced attorney hourly rate of \$595.00. Accordingly,
11 the total lodestar for my hours will be approximately \$60,690.00 based on the reduced hourly
12 rate of \$595.00 per hour [\$595.00 x 102 attorney hours]. This has been the approved hourly
13 rate by this Court for the past three years without any adjustment for inflation.

14 12. Having represented both employees and employers during my practice, I am
15 familiar with the contingent fee market throughout Northern California, where I primarily
16 practice law, and in other areas of the state in which my firm regularly litigates. Considering
17 our experience and my knowledge of the market, I believe that the hourly rates charged by my
18 firm, and previously approved by this Court, are fair and reasonable and less than those
19 charged by my colleagues in other areas of California and the national market for prosecuting
20 class actions.

21 13. I received my bachelor's degree from the University of California, Santa Barbara
22 and my Juris Doctor degree from the University of Santa Clara School of Law. I have
23 practiced law since 1987. The primary emphasis of my practice is employment litigation. I
24 have represented both employers and employees. Over 15 years ago, my office commenced
25 handling plaintiff class action wage and hour cases. Since then, my office has handled
26 hundreds of wage and hour cases to conclusion and has been class counsel and/or co-counsel
27 in over 100 class actions. My firm currently has wage and hour cases in Alameda County
28 Superior Court, Monterey County Superior Court, Nevada County Superior Court, Santa Clara

1 Superior Court, San Benito Superior Court, San Bernardino County Superior Court, San
2 Joaquin County Superior Court Santa Cruz Superior Court, Ventura County Superior Court,
3 and the United States District Courts for the Eastern and Northern District of California.

4 14. Class Counsel risked not only a great deal of time, but also significant expense
5 to ensure the successful litigation of this action on behalf of all employees. In addition to the
6 supporting documentation and legal authority presented in Plaintiff's moving papers, Class
7 Counsel submits that the attorneys' fees proposed are not just fair and reasonable; they are
8 necessary in order to incentivize attorneys to take on the risk of time and expense associated
9 with Class actions. Indeed, many times counsel expend enormous amounts of work and out of
10 pocket costs in the interest of aggrieved employees and/or the State of California, only to end
11 up without any recovery whatsoever. For example, Class Counsel expended significant time
12 and expenses in a wage/hour class and PAGA action, only to have the District Court grant
13 summary judgment in its entirety against plaintiff. See *Guynn-Neupane*, 2021 WL 4481661
14 (N.D. Cal. Sep. 30, 2021). There are actual risks that Plaintiff requests this Court take into
15 account when considering the requested attorneys' fees, including any multiplier to be
16 accounted into Plaintiffs' lodestar.

17 15. To date, my firm has incurred \$3367.76 in litigation costs. The costs are all
18 litigation-related costs. All costs were reasonable and necessary to the effective prosecution of
19 this matter. Class Counsel advanced costs without guarantee that any of the advanced costs
20 would be recovered. *Berkeley Cement, Inc. v. Regents of the University of California*, (2019)
21 30 Cal. App. 5th 1133, explains that mediation-related expenses are recoverable under the
22 circumstances of this case. Attached hereto as **Exhibit B** is a copy of the litigation costs my
23 firm has incurred in connection with the prosecution of this lawsuit.

24 16. I do not have a conflict of interest with Plaintiff or the Class Members. My co-
25 counsel and I will adequately represent the Class Members in this action. Class Counsel has
26 and will zealously represent Plaintiff and the Class and pursue this lawsuit to its conclusion.

27 17. Neither counsel nor their respective firms have any relationship with the
28 proposed *cy pres* recipient that would create an actual or potential conflict of interest. The

1 Parties further agree that the State Bar's Justice Gap Fund, satisfies the legislative intent set
2 out in Code of Civil Procedure § 384(a), in that the organization helps further the purposes of
3 the underlying action and promote justice for all Californians.

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct and if called as a witness I could and would competently testify to
6 each of the matters stated herein, and I state that these matters are based upon my own
7 personal knowledge acquired through first-hand observation, except where stated otherwise.

8 This declaration was executed by me on November 19, 2024, in Salinas, California.

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11 B. James Fitzpatrick

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EXHIBIT A

TASKS AND HOURS

The tasks referenced below involved work by attorneys and paralegals. The amount of time spent by each is detailed below.

I. INVESTIGATION

Task

- Meetings/telephonic conferences with client regarding their employment and alleged violations
- Review of documents provided by client;
- Prepare and serve request for personnel file;
- Review personnel file;
- Numerous intra-office meetings/conferences regarding planning, results and details of investigations;
- Research for other lawsuits against defendants;
- LWDA research
- Legal research regarding IWC Wage Orders;
- Legal research regarding 2810.3(d) claim;
- Legal research regarding claims that would be alleged in the complaint;
- Prepare and serve PAGA notice; and
- Prepare and serve 2810.3(d) notice.

Attorney Hours: 17

Paralegal Hours: 3

II. PLEADINGS / CASE MANAGEMENT

Task

- Prepare and file Complaint, Civil Cover Sheet, and Summons;
- Receive and review CMC and Assignment Notice;
- Prepare and file Proof of Service of Summons as to MB;
- Prepare and file POS of Summons as to D'Arrigo;
- Receive and review MB's Answer;
- Receive and review D'Arrigo's Answer;
- Prepare for and attend 8/16/22 CMC;
- Receive and review 8/16/22 Minute Order;
- Prepare for and attend 12/13/22 CMC;
- Receive and review 12/13/22 Minute Order;
- Prepare for and attend 3/28/23 CMC;
- Receive and review 3/28/23 Minute Order;
- Prepare for and attend 3/26/24 CMC;
- Receive and review 3/26/24 Minute Order;

Attorney Hours: 5

Paralegal Hours: 0.7

III. DISCOVERY / DOCUMENTS

Task

- Numerous intra-office meetings/conferences;
- Prepare and serve interrogatories and request for production of documents, set one to MB;
- Prepare and serve interrogatories and request for production of documents, set one to D'Arrigo;
- Receive and review MB's form and special interrogatories and request for production of documents, set one to Plaintiff;
- Prepare, review and serve plaintiff's responses to MB's form and special interrogatories and request for production of documents, set one
- Receive and review MB's responses to interrogatories and request for production of documents and bates-stamped documents 000001-000124
- Receive and review D'Arrigo's responses to interrogatories and request for production of documents
- Prepare, file, and serve stipulated protective order;
- Prepare, file, and serve NEO re stipulated protective order;

- Receive and review MB's informal production of 5,251 pages of documents; and
- Prepare multiple damages summary.

Attorney Hours: 38

Paralegal Hours: 7

IV. MEDIATION

Task

- Follow up meetings with client, employee 1, employee 2, employee 3, employee 4, employee 5, and employee 6;
- Legal research;
- Receive and review mediation data to prepare damage models;
- Analysis and revision of damage models calculating damages, interest and penalties;
- Follow up intra-office meetings/conferences regarding claims, damages, and settlement;
- Review and revise mediation brief;
- Prepare for and attend mediation;
- Review and revise MOU
- Meeting with client regarding MOU

Attorney Hours: 30

Paralegal Hours: 2.5

V. MOTION FOR PAGA APPROVAL

Task

- Meetings/conferences with defense counsel regarding the stipulation for settlement; notice material and motion;
- Intra-office meetings/conferences regarding the stipulation for settlement, notice material and motion;
- Prepare settlement stipulation;
- Meet with Plaintiff to review the settlement stipulation;
- Prepare notice material;
- Prepare motion;
- Prepare for and attend hearing;
- Anticipated multiple communications with Plaintiff and PAGA members regarding the PAGA payment.

Attorney Hours: 12

Paralegal Hours: 2

Total Attorney Hours: 102

Total Paralegal Hours: 15.2

Total Attorney and Paralegal Hours: 117.2

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EXHIBIT B

Cost/Expense Detail

Date	Code	Check #	Type	Units	Amount	Description	Date Billed	Amount Billed
R0105 FTP								
600 FTP								
1/11/22	102		Cost		75.00	LWDA		
3/11/22	102		Cost		1,478.06	Odyssey Efile - Complaint		
3/22/22	102		Cost		3.60	Odyssey Efile		
3/24/22	01	60285	Exp.		56.70	Sayler Legal Service, Inc. Court Messenger Service		
3/24/22	01	60285	Exp.		105.25	Sayler Legal Service, Inc. Court Messenger Service		
7/29/22	102		Cost		3.60	Odyssey Efile		
3/17/23	102		Cost		3.60	Odyssey Efile		
9/12/23	102		Cost		24.15	Odyssey Efile		
10/10/23	102		Cost		1,617.80	JAMS Mediation		
Matter Total					3367.76			.00
Client Total					3367.76			.00
Report Total:								
Total					3367.76			.00

Types: Unbilled Costs, Unbilled Expenses, Billed Costs, Billed Expenses

Selection criteria: Client: R0105 Matter: 600

Sorted by: Client Number / Matter Number