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Attorneys for Plaintiffs, the Class, and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

LORENA RAMIREZ, on behalf of herself
and all similarly aggrieved employees,

Plaintiff,

v.

COVENANT SURGICAL PARTNERS,
INC.; SALINAS ENDOSCOPY CENTER,
LLC; AND DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV000081

(Assigned to the Honorable Thomas W. Wills,
Dept. 15)

**DECLARATION OF KRISTEN M. AGNEW
IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: December 8, 2023

Time: 8:30 a.m.

Dept.: 15

Complaint Filed: January 10, 2022

Trial Date: None

1 **DECLARATION OF KRISTEN M. AGNEW**

2 I, Kristen M. Agnew, declare as follows:

3 1. I am an attorney at law, duly licensed to practice before all Courts in the State of
4 California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiffs
5 Lorena Ramirez and Teresa Martinez (“Class Representatives” or “Plaintiffs”). I have personal
6 knowledge of the facts set forth below and if called to testify I could and would do so
7 competently.

8 **FAIRNESS OF THE SETTLEMENT**

9 2. The Joint Stipulation of Class Action Settlement (“Settlement Agreement” or
10 “Agreement”) was the product of negotiations between highly able and experienced attorneys on
11 both sides who possessed the relevant data and extensive legal research which they had carefully
12 analyzed. The Parties engaged in arm’s length negotiations at mediation with a highly
13 experienced and known wage-and-hour mediator, Michael J. Loeb, Esq.

14 3. Additionally, Class Counsel engaged in extensive factual investigation before
15 settling. Defendants provided fulsome and substantive responses to written discovery and
16 provided documents and information relevant to class certification, including the number of
17 members in the putative class, documents pertaining to Defendants’ payroll policies and
18 procedures, and time and payroll records of putative class members. Additionally, Plaintiffs
19 deposed Defendants’ designated person most knowledgeable on topics related to Defendants’
20 meal/rest period policies, calculation of the hours worked by putative class members, “rounding”
21 policy, calculation of the regular rate of compensation and cellphone reimbursement policy.

22 4. In preparation for mediation, my office retained Econ One to review the payroll
23 data and perform a comprehensive damage analysis. Based on Defendants’ prior written
24 discovery responses, Econ One determined the total number of Class Members and Aggrieved
25 Employees, the number of meal and rest period eligible shifts worked during the Class Period
26 and PAGA Period, the number of pay periods in which non-discretionary incentive pay was
27 earned in the same workweek as overtime, sick pay and/or meal period premiums, the aggregate
28 amount of time lost due to the alleged rounding, the number of employees who separated

1 employment, and the average rate of pay for all employees.

2 5. Using the analysis provided by Econ One, I was able to calculate a range of
3 potential damages and penalties. I estimated that Defendants' maximum liability exposure is
4 approximately \$18,375,189. Thus, in the present case, the Gross Settlement Amount is
5 approximately 9.52% of the maximum recovery of the class and representative PAGA claims.

6 6. I have spent significant time researching and pursuing the claims that have been
7 alleged in this action. Based on my independent investigation and evaluation, I am of the opinion
8 that the proposed settlement is fair, reasonable, and adequate, and is in the best interests of the
9 Class Members, in light of all known facts and circumstances, and the expenses and risks
10 inherent in litigation.

11 **ATTORNEY QUALIFICATIONS**

12 7. My qualifications are as follows: I was the 2003 recipient of the Spelman
13 Presidential Scholarship to Emory University School of Law. During law school, I was a summer
14 associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta
15 office of the Equal Employment Opportunity Commission. I received my J.D. from Emory
16 University in 2006 and was admitted to the California Bar in December 2006. Following law
17 school, I was an associate at Sonnenschein from September 2006 to May 2009.

18 8. Since 2009, my primary area of practice has been employment litigation. I have
19 practiced law at two preeminent employment defense firms. From May 2009 to June 2011, I was
20 an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then
21 senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June
22 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500
23 companies in employment litigation in both state and federal courts, as well as before
24 government agencies, including the California Department of Labor. My practice included the
25 defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair
26 Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I
27 also handled a number of wage and hour class actions.
28

1 9. While at Ogletree and Seyfarth, I served as the lead associate on a number of
2 wage and hour class actions, including *Martha Cardenas v. Gold's Gym*, Los Angeles County
3 Superior Court Case No. BC445112; *Nathaniel Werner v. Crown Equipment Corporation*, Los
4 Angeles County Superior Court Case No. BC439428; *Christopher Williams v. Allstate Insurance*
5 *Co.*, Los Angeles County Superior Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles
6 County Superior Court Case No. BC464894; *Melissa Roberts v. Zale Delaware, Inc.*, Los
7 Angeles Superior Court Case No. BC523610; *Michael Oliver v. Konica Minolta Business*
8 *Solutions U.S.A., Inc.*, Santa Clara County Superior Court Case No. 114-CV-263183; *Tessa*
9 *Hodge v. Zale Delaware, Inc., d/b/a Piercing Pagoda*, San Bernardino Superior Court Case No
10 CIVVS1301632; *Warren v. Paychex, Inc.*, N.D. Cal. Case No. 3:10-cv-02006; *Tapia v. Zale*
11 *Delaware Inc. et al*, S.D. Cal. Case No. 3:13-cv-01565; and *Benjamin Burgess et al v. Tesoro*
12 *Refining and Marketing Company et al*, C.D. Cal. Case No. 2:10-cv-05870.

13 10. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time
14 handling employment cases. I primarily represent employees.

15 11. I have been approved as class counsel in numerous other wage/hour class actions
16 that have been granted class certification and final approval, including: *Antonio Becerra-Mata v.*
17 *PSC Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030;
18 *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior Court Case
19 No. BC608609; *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case
20 No. 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*, Santa
21 Clara County Superior Court Case No. 17CV306751; *Foaad Hanna v. Equinix, LLC*, Santa Clara
22 County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles
23 County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community*
24 *Hospital*, Santa Cruz Superior Court Case No. 18CV00191; *Michael Randolph v. Pacific Racing*
25 *Association*, Alameda County Superior Court Case No. RG18908139; *Cody Wirbick v. Sundt*
26 *Construction, Inc.*, U.S. District Court for the Eastern District of California Case No. 2:19-cv-
27 02067-MCE-CKD; *Jose Vasquez Ruiz v. Perdue Foods, LLC*, Sonoma County Superior Court
28

1 Case No. SCV 264649; *Delmer Wood III v. Reeve Trucking Company Inc.*, San Joaquin
2 Superior Court Case No. STK-CV-UOE-2018-0004414; *Eric Chavez v. Converse, Inc.*, U.S.
3 District Court for the Northern District of California Case No. 15-cv-03746-NC; *Jharett Siron v.*
4 *Raypak, Inc.*, Ventura County Superior Court Case No. 56-2019-00527959-CU-OE-VTA;
5 *Prexxie Pascual and Arturo Fonseca v. Satellite Healthcare, Inc.*, Santa Clara Superior Court
6 Case No. 19CV345211; and *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior Court
7 Case No. 19CV341582.

8 12. I also second chaired two jury trials where I represented the prevailing defendant.
9 Both cases involved employees who brought claims against their former employers pursuant to
10 the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al.*,
11 Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt &*
12 *Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909. More
13 recently, I was lead trial counsel on a PAGA bench trial, in which the plaintiff was the prevailing
14 party.

15 **ATTORNEYS' FEES AND LITIGATION COSTS**

16 13. To date, I have incurred approximately 103.50 hours in connection with the
17 litigation of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have
18 incurred to date. I expect to spend additional time finalizing this settlement, including preparing
19 for the approval hearing, reviewing data provided by Defendant to Settlement Administrator,
20 conferring with Settlement Administrator regarding distribution of payment to Settlement Class
21 Members, and fielding phone calls regarding inquiries about the Settlement.

22 14. My hourly rate in class and representative actions is \$700. However, in this
23 motion, I request a reduced hourly rate of \$595.00. Accordingly, the total lodestar for my hours
24 will be approximately \$61,582.50 (103.50 hours x \$595). I have been approved at an hourly rate
25 of \$700.00 per hour by various Courts, in a number of matters, including: *Foaad Hanna v.*
26 *Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v.* 24
27 *Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v.*
28

1 *Watsonville Community Hospital*, Santa Cruz Superior Court Case No. 18CV00191; *Michael*
2 *Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No.
3 RG18908139; *Gutierrez v. Spa Havens, LP*, San Diego Superior Court Case No. 37-2019-
4 00057065-CU-OE-NC; *Cruzado v. Ontario T, Inc.*, San Bernardino Superior Court Case No.
5 CIVSB2027249; *Ray v. C&W Facility Services, Inc.*, San Bernardino Superior Court Case No.
6 CIVSB2101321; *Alvarez v. Forterra Building Products*, San Diego Superior Court Case No. 37-
7 2020-00018179-CU-OE-CTL; *Dunn v. Universal Plant Services of California, Inc.*, Solano
8 County Superior Court Case No. FCS056134, *Pulido v. Georgia-Pacific Corrugated III LLC*,
9 Fresno Superior Court Case No. 18CECG00265; *In re: FPI Management Wage and Hour Cases*,
10 Los Angeles Superior Court Case No. JCCP5050; *Delgado v. Kloeckner Metals Corporation*,
11 Los Angeles Superior Court Case No. 20STCV22503; *Jackson v. Samuel, Son & Co. (USA) Inc.*,
12 Riverside County Superior Court Case No. CVRI2101679, *Blanton v. Communications Test*
13 *Design, Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2021-0005136; *Diaz v. Acuity*
14 *Brands Lighting, Inc.*, San Bernardino Superior Court Case No. CIVDS2015583; *Flournoy v.*
15 *Partners Personnel – Management Services, LLC*, Riverside County Superior Court Case No.
16 CVRI2102372; *Idian v. VHSD ES INC.*, San Diego Superior Court Case No. 37-2019-00018927-
17 CU-OE-CTL; *Miller v. Stanbridge University*, Orange County Superior Court Case No. 30-2021-
18 01206298-CU-OE-CXC; *Romano v. SSA Terminals, LLC*, Los Angeles Superior Court Case No.
19 20STCV29048; *Wise v. Le Petite Academy, Inc.*, San Joaquin Superior Court Case No., STK-
20 CV-UOE-2021-10561; *Chambers v. SOMACIS, Inc.*, San Diego Superior Court Case No. 37-
21 2021-00033445-CU-OE-CTL; *Johnson v. FS Palo Alto Employment, Inc.*, Santa Clara Superior
22 Court Case No. 21CV389927; *Rodriguez v. U.S. Bank National Association*, Los Angeles
23 Superior Court Case No. BC617356; *Moss v. Sares Regis Operating Company, L.P.*, Orange
24 County Superior Court Case No. 30-2021-01201041-CU-OE-CXC; and *Rodriguez v. City*
25 *National Bank*, Los Angeles Superior Court Case No. 20STCV29761.

26
27 15. At the time the Parties negotiated the Settlement Agreement, I did not have a final
28 tally of the litigation costs incurred to date. As such, the Parties included a maximum amount

1 that could be attributed to costs under the settlement. To date, Diversity Law Group has incurred
2 costs in the amount of \$9,805.27 for litigation related expenses. Attached hereto as **Exhibit B** is
3 a true and correct copy of the cost report. Taking into account the \$9,845.43 in costs incurred by
4 co-counsel, Class Counsel's anticipated actual litigation costs total \$19,650.70.

5 **NOTICE TO LWDA**

6 16. On July 19, 2023, my office uploaded the Court's Order Granting Preliminary
7 Approval to the LWDA's website.

8 17. On November 14, 2023, my office uploaded this Motion and Proposed Order to
9 the LWDA's website. In addition, my office shall submit to the LWDA a copy of the Court's
10 judgment and order approving the Settlement Agreement within ten (10) days after entry of
11 judgment or order.

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

14 Executed on this 14th day of November 2023, at Los Angeles, California.

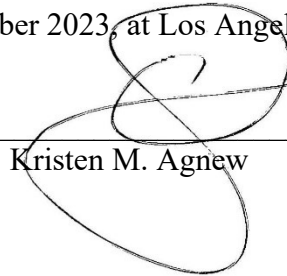
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17 _____
18 Kristen M. Agnew
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EXHIBIT A

Kristen M. Agnew Time and Task Chart
Lorena Ramirez v. Covenant Surgical Partners, Inc. et. al.
Superior Court of California, County of Monterey Case No. 22CV000081

Hours	Description of Work
7.90	Review case file, including PAGA Notice, Class and Representative Action Complaint for Damages and case intake notes; confer with co-counsel re theories of liability; conduct research re same; prepare memorandum to file re same.
1.40	Review and revise First Amended Class and Representative Action Complaint.
2.70	Meet and confer with defense counsel re stipulated protective order; review and revise proposed stipulated protective order; confer with co-counsel re same; review and respond to email re same.
11.40	Draft requests for production of documents (set one) and special interrogatories (set one) for each named defendant; review and analyze Defendants' responses to the written discovery; meet and confer with defense counsel re same; draft and respond to correspondence re same; review and analyze Defendants' amended responses to the written discovery.
15.30	Confer with co-counsel re topics for PMK deposition; review and revise PMK Notice; prepare for and attend PMK deposition; review and summarize PMK deposition transcript.
6.90	Review and analyze Defendants' production of payroll data for putative class members; confer with expert re data calculations; review and analyze expert's damages analysis; review and respond to email re same; prepare exposure analysis and penalties calculation.
22.10	Draft mediation statement; legal research re same; confer with co-counsel re strategy for mediation; attend all day mediation.
8.30	Draft Joint Stipulation of Class Action Settlement ("Settlement Agreement"); confer with co-counsel re revisions to Settlement Agreement; draft notice to class members.
10.10	Draft motion for preliminary approval of class action settlement; draft supporting attorney and client declarations; review proposed revisions to motion for preliminary approval; confer with co-counsel in re same.
1.30	Confer with settlement administrator regarding distribution of notice of class action settlement; review and finalize notice; analyze and review reports from class administrator; confer with class members re terms of settlement; confer with administrator re inquiries re settlement; confer with co-counsel and defense counsel re additional class members omitted from class data; review and respond to email re same.
16.10	Draft motion for final approval and supporting declarations; conduct legal research re same; confer with settlement administrator re declaration in support of final approval; review and respond to email re same.
103.50	TOTAL HOURS

EXHIBIT B

Selection Criteria

Slip Classification Open
Client (hand select) Include: Ramirez, Lorena v. Covenant

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
71992	EXP	Olympia	28	0.25	7.00
4/30/2022		Photocopies			
WIP		Ramirez, Lorena v. Covenant			
Photocopies					
71993	EXP	Olympia	1	2.16	2.16
4/30/2022		Postage			
WIP		Ramirez, Lorena v. Covenant			
Postage					
71754	EXP	Olympia	1	3.60	3.60
5/10/2022		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Odyssey - Joint CMS					
72303	EXP	Kristen Agnew	1	2.70	2.70
6/21/2022		Telephone			
WIP		Ramirez, Lorena v. Covenant			
Conference call					
73237	EXP	Erika Mejia	1	3.60	3.60
10/7/2022		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Odyssey - Joint CMS					
73927	EXP	Olympia	1	1164.40	1164.40
12/22/2022		Transcript/DEP			
WIP		Ramirez, Lorena v. Covenant			
Steno - Deposition Transcript of PMK					
Damaris Navarro [DELAY PAY, NOT YET PAID]					
74391	EXP	Erika Mejia	1	127.43	127.43
1/27/2023		Atty Service			
WIP		Ramirez, Lorena v. Covenant			
Attorney Service - Mediation Brief Messenger					
74422	EXP	Olympia	1	8189.48	8189.48
2/14/2023		Experts			
WIP		Ramirez, Lorena v. Covenant			
Econ One					

11/7/2023
4:06 PM

DIVERSITY LAW GROUP
Slip Listing

Page 2

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
74625	EXP	Olympia	1	167.20	167.20
3/9/2023		Experts			
WIP		Ramirez, Lorena v. Covenant			
Econ One					
75509	EXP	Erika Mejia	1	65.25	65.25
6/21/2023		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Odyssey - MPA					
75681	EXP	Erika Mejia	1	3.60	3.60
7/13/2023		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Odyssey - Notice of Remote Appearance					
76494	EXP	Kristen Agnew	1	65.25	65.25
11/3/2023		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Estimated MFA Filing Fees					
76495	EXP	Kristen Agnew	1	3.60	3.60
11/3/2023		Court fees			
WIP		Ramirez, Lorena v. Covenant			
Estimated Notice of Remote Appearance					
Grand Total					
			Billable	0.00	9805.27
			Unbillable	0.00	0.00
			Total	0.00	9805.27