

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

D. LAW, INC.
Emil Davtyan (State Bar No. 299363)
emil@d.law
400 N. Brand Blvd., Suite 700
Glendale, California 91203
Telephone: (818) 875-2008
Facsimile: (818) 722-3974

Attorneys for Plaintiffs and the Class

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

PATRICIA O'CONNOR and STEVEN
RODRIGUEZ, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

WHOLE FOODS MARKET CALIFORNIA,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 22CV008620

[Hon. Noël Wise, Department 21]

**DECLARATION OF EMIL DAVTYAN IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 18, 2024
Time: 1:30 p.m.
Department: 21

Reservation ID: 120997891563

Complaint Filed: March 18, 2022

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1. I am an attorney licensed and admitted to practice law in California. Along with DIVERSITY LAW GROUP, I am co-counsel for the class action Plaintiffs PATRICIA O’CONNOR and STEVEN RODRIGUEZ (“Plaintiff”) in their action against Defendants. I have personal knowledge of the facts herein and if called as a witness, I could and would competently testify.

3. I am an attorney duly licensed to practice law in the State of California and am a member in good standing with the State Bar of California.

5. I have been actively participating in the prosecution and successful settlement of multiple wage and hour class action lawsuits, helping to recover wages and penalties on behalf of tens of thousands of class members.

DECLARATION OF EMIL DAVTYAN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

1 17CV316492), *Jones Tharpe et al. v. Sprint Corporation et al.* (Superior Court of California in Los
2 Angeles, BC644645), *Ortega et al. v. Nestle Waters North America, Inc. et al.* (Superior Court of
3 California in Los Angeles, BC623610), *Schultz v. Jimbo's Natural Family, Inc.* (Superior Court of
4 California in San Diego, 37-2017-00022348-CUE-OE-CTL), *Ambrose v. Victor Valley Global et al.*
5 (Superior Court of California in San Bernardino, CIVDS1709289), *Puerta-Gildardo v. Real Time*
6 *Staffing Services LLC et al.* (Superior Court of California in Los Angeles, BC565445), *Vargo v. Pregis*
7 *Innovative Packaging LLC* (Superior Court of California in Tulare, 270836), *Conlin v. Aegis Senior*
8 *Communities LLC* (Northern District of California, 17-cv-05534-LHK), *Galarza v. Kloeckner Metals*
9 *Corporation* (Central District of California, 2:17-cv-04910- FMO), *Estes v. L3 Technologies, Inc. et al.*
10 (Southern District of California, 3:17-cv-02356-H-JMA), *Rowser v. Trunk Club, Inc.* (Central District
11 of California, 2:17-cv-05064-DSF-RAO), *Leach v. The Claremont Colleges, Inc.* (Superior Court of
12 California in Los Angeles, BC686451), *Vaesau v. PCT Enterprises, Inc. dba Precision Cabinets*
13 (Superior Court of California, County of Contra Costa MSC18-02404), *Terry v. TF Louderback, Inc.*
14 *dba Bay Area Beverage Company* (Superior Court of the State of California, County of Contra Costa,
15 MSC18-00859), *Roach v. Westcare California, Inc.* (Superior Court of California in Kern County,
16 BCV-17-102367-SDS), *Patton v. Church & Dwight Co., Inc.* (Central District of California, EDCV 18-
17 903-MWF (KKx)), *Juarez v. ISL Employees, Inc.* (Superior Court of California in Madera,
18 MCV074787), *Ferraro v. USC Verdugo Hills Hospital, et al.* (Superior Court of California in Los
19 Angeles, 18STCV09463), *Ford v. Account Control Technology, Inc., et al.* (Superior Court of
20 California in Los Angeles, 19STCV09369), *Ornelas v. iStorage, et al.* (Superior Court of California in
21 San Francisco, CGC-18-571421), *Martinez v. Ronpak, Inc.* (Superior Court of California in Riverside,
22 RIC1901307), *Barrera et al. v. Exclusive Wireless, Inc.* (Superior Court of California in Stanislaus,
23 9000687), *Barajas v. Mancha Development Company LLC* (Superior Court of California in Orange
24 County, 30-2018-00974707-CU-OE-CXC), *Prado v. IMAX Corporation dba IMAC Worldwide Home*
25 (Superior Court of California in San Bernardino, CIVDS1820265), *Rodriguez v. ND Industries, Inc.*
26 (Superior Court of California in Los Angeles, 19STCV38096), *Singletary v. Motel 6 Operating LP, et*
27 *al.* (Southern District of California, 3:20-cv-0270-LAB-AHG), *Quizon v. CF Watsonville East, LLC, et*
28 *al.* (Superior Court of California in Santa Cruz, 20CV01868), *Stephenson v. Bakersfield Dodge, Inc.*

(Superior Court of California in Kern, BCV-20-102693), *Bacerra v. Hugo Boss Retail, Inc.* (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL), *Walker v. Ariat International, Inc.* (Superior Court of California in Alameda, HG19026439), *Orr v. Petvet Care Centers (California) Inc.* (Superior Court of California in Santa Clara, 19CV354063), *Jimenez v. OEC Distribution Services, Inc.* (Superior Court of California in San Bernardino, CIVDS1915743), *Virdi v. Absolute Security International* (Superior Court of California in San Bernardino, CIVDS 1909589), *Raj v. First Transit, Inc.* (Superior Court of California in Sacramento, 34-2021- 00295895-CU-OE-GDS), *Marchbanks v. Torrid Administration, Inc.* (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC), *Taylor v. Populus Group, LLC* (Southern District of California, 3:20-cv-00473-BAS-BLM), *Wilkerson v. Intuit, Inc.* (Superior Court of California in San Diego, 37-2020-00030371-CU-OE-CTL, among others.

7. In addition, my office has been counsel of record in a number of pending wage and hour Class/PAGA action lawsuits, including, *Moriana v. Viking River Cruises* (Superior Court of California in Los Angeles, BC 687325), *Trevino v. Golden State FC LLC et al.* (Eastern District of California, 1:18-cv-00120-DAD (BAM)), *Garcia v. Statewide Traffic Safety and Signs, Inc.* (Superior Court of California in Orange County, 30-2018-01011814-CU-OE-CXC), *Arellano v. Lopez & Arteaga, Inc. et al.* (Superior Court of California in Santa Clara, 17CV313029), *Cruz v. Talentscale LLC* (Superior Court of California in Riverside County, RIC1821842), *Tolbert v. Northbay Healthcare Corporation* (Superior Court of California in Solano County, FCS051565), *Cruz v. Dignity Health dba Bruceville Terrace* (Superior Court of California in Sacramento County, 34-2018-00245506), *Limon v. Circle K Stores, Inc.* (Eastern District of California, 18-cv-01689-LJO-SKO), *Parra, et al. vs. Trinity Services Group, Inc.* (Superior Court of California in Kern, JCCP5155), *Hernandez v. Clark Pacific* (Superior Court of California in Yolo, CV-2019-644), *Gomez v. The Regents of the University of California et al.* (Superior Court of California in San Diego, 37-2019-00030873-CU-OE-CTL), *Larson v. Mark Twain Medical Center* (Superior Court of California in Calaveras, 19CV44062) *Girard v. Office Depot Inc.* (Superior Court of California in Santa Clara, 19CV351584), *Johnson v. Bakersfield Memorial Hospital, et al.* (Superior Court of California in Kern BCV-19-102016), *Higginbotham et al. v. South East Employee Leasing Services* (Eastern District of California, 2:20-CV-00575-KJM-DB) *Bailon v. LAFC Sports LLC* (Superior Court of California in Los

Angeles, 19STCV29518), *Hutchinson v. G6 Hospitality LLC dba Motel 6* (Southern District of California, 3:20-cv-00270-LAB-AHG), *Powell v. St. Joseph Medical Center* (Superior Court of California in San Joaquin, STK-CV-UOE-2019-0011155), *Jones v. Summit Therapeutics Services Inc.* (Superior Court of California in Santa Clara, 19CV353991), *Barksdale v. UC Davis Medical Center* (Superior Court of California in Sacramento, 00269829), *Springstead v. Recovery Innovations Inc., et al.* (Superior Court of California in San Diego, 37-2020-00001555-CU-OECTL), *Oceana v. Tri-City Medical Center* (Superior Court of California in San Diego, 37-2019-65323-CU-OE-CTL), *Maldonado v. Sit 'N Sleep, Inc.* (Superior Court of California in Los Angeles, 19STCV41237), *Taylor v. Populus Group, LLC* (Southern District of California, 3:20-cv-00473-BAS-BLM), *Lim v. Seafood City, et al.* (Superior Court of California in Alameda, RG20066777), *Harisis v. Starbucks Corporation* (Superior Court of California in Los Angeles, 20STCV11290), *Battle v. Safran Cabin* (Superior Court of California in Orange, 30-2020-01140831-CU-OE-CXC), *Smith v. Noia Residential Services, Inc.* (Superior Court of California in Fresno, 20CECG01820), *Diaz v. Recon 360, LLC* (Superior Court of California in Santa Clara, 20CV370603), *Rivas v. 8x8, Inc.* (Superior Court of California in Santa Clara, 20cv374192), *Compton v. Broadbase, Inc.* (Superior Court of California in Sacramento, 34-2020-00285501-CU-OE-GDS), *Marden v. CVS Pharmacy, Inc., et al.* (Superior Court of California in Placer, S-CV-0045902), *Godwin v. St. Mary Medical Center Foundation, et al.* (Superior Court of California in Los Angeles, 20STCV45671), *Tabera v. St. Elizabeth Community Hospital, et al.* (Superior Court of California in San Francisco, CGC-21-589691), *Morgan v. Candid Care Co.* (Superior Court of California in San Francisco, 3:21-cv-01748-JSC), *Richardson v. Pegasus Aviation Services, LLC* (Superior Court of California in San Mateo, 21-CIV-00292), *Newsome v. Graybar Electric Company, Inc.* (Northern District of California, 4:21cv1000), *Terronez v. ST. JOHN'S Regional Medical Center, et al.* (Superior Court of California in Ventura, 56-2021-00551166-CU-OE-VTA), *Butler v. PowerSchool Group, LLC* (Superior Court of California in Sacramento, 34-2021-00303458), *Dale v. PCC Structural Inc., et al.* (Superior Court of California in Alameda, RG21102183), *Horowitz v. Sky West Airlines* (Northern District of California, 3:21-cv-04674-MMC), *Castillo v. Harmony Foods, LLC et al.* (Superior Court of California in Santa Cruz, 21CV00961), *Wightman v. Cobham Advanced Electronic Solutions, Inc.* (Superior Court of California in San Diego, 37-2021-00038124-CU-OE-CTL), *Martin v. Air International US Inc.* (Superior Court of California in

Alameda, RG21098764), *Ziperman v. Parkway Motorcars Valencia Inc., et al.* (Superior Court of California in Los Angeles, 21STCV31959), *Amiri v. Grewal Foods OC Sub, Inc. dba Subway* (Superior Court of California in Los Angeles, 21STCV20426), *Valenzuela v. Network Medical Management, Inc.* (Superior Court of California in Los Angeles, 21STCV39548), *Miles v. Chico Produce Inc.* (Superior Court of California in Sacramento, 00301881), *Hoelzel v. Starbucks* (Superior Court of California in Los Angeles, 21STCV37838), *Randle- Tatum v. Hopdoddy Burger Bar, Inc.* (Superior Court of California in Los Angeles, 21STCV21015), *Magallan v. SW Ingredients Holdings, LLC et al.* (Superior Court of California in Fresno, 21CECG01943), *Turner v. Smithfield Distribution, LLC* (Superior Court of California in Los Angeles, 21STCV23414), *Martin v. American Custom Private Security Inc.* (Superior Court of California in San Joaquin, STK-CV-UOE-2021-8213), *Brito v. Brothers International Desserts Inc. et al.* (Superior Court of California in Orange, 30-2022-01242515-CU-OE-CXC), *Chavis v. Grocery Outlet, Inc.* (Superior Court of California in Sacramento, 34-2021-00309003-CU-OE-GDS), *Randall v. YRC Inc., et al.* (Superior Court of California in San Bernardino, CIVSB2205968), *Carroll v. LA Family Housing Corporation* (Superior Court of California in Los Angeles, 20STCV04474), *Wilkerson v. Intuit, Inc.* (Superior Court of California in San Diego, 37-2020-00030371-CU-OE-CTL), *Teer v. Sabert Corporation* (Superior Court of California in Riverside, RIC1905847), *Felix v. Wm. Bolthouse Farms, Inc.* (Eastern District of California, 1:19-CV-00312-AWI-JLT), *Soto v. O'Reilly Auto Enterprises, LLC* (Central District of California in Riverside, 5:20-cv-00214-JGB-KK), *Kane v. Smithfield Direct, LLC* (Central District of California, 21-CV-04832 PA (JCx)), *North v. Jones Lang Lasalle Americas, Inc.* (Superior Court of California in San Diego, 37-2019-00028271-CU-OE-CTL), among others.

8. Although I am experienced in employment and class action matters, I associated in as co-counsel on this case with Diversity Law Group. Diversity Law Group has a great deal of experience in wage and hour class action employment cases, and together our firms have and will continue to aggressively and competently represent the named plaintiff and putative class members in this case.

9. Plaintiff's counsel, along with the assistance of the Class Representatives, conducted an investigation prior to the Complaint being filed and throughout the litigation. Discovery included informal discovery provided for the purpose of the mediation. Plaintiffs conducted investigations into Defendant's policies and practices and reviewed and analyzed documents produced by Defendant.

Defendant also informally produced documents and information necessary to calculate damage models prior to attending mediation. The parties thoroughly investigated the claims and exchanged extensive information regarding the claims prior to negotiating a settlement in this case. The parties attended a mediation session before reaching a settlement subject to court approval.

10. The settlement amount is, of course, a compromise figure. Plaintiff took into account the risks that the class would not be certified, risks related to proof of Plaintiff's claims and the strengths and weaknesses of Defendant's other defenses. Plaintiffs also took into account the possibility that if a settlement were reached after additional years of litigation, the great expenses and attorneys' fees of litigation would reduce the amount of funds available to the class members for settlement.

11. Class Counsel are experienced and qualified to evaluate Class claims and viability of the defenses. The recovery for each Class Member is fair and reasonable based on all risk factors.

12. In my opinion, based on my experience as outlined above, the settlement is fair, reasonable, and adequate and should receive this Court's final approval.

Fees My Office Has Incurred

13. By the time this case is fully administered, I will have spent more than 60.0 hours on this matter. The hours spent to date total 54.0 hours (excluding estimated 6.0 hours of post-final approval administration of the settlement), which consist of the following:

- a. 38.5 hours conducting pre-litigation investigation, including meetings and/or calls with the Plaintiff and researching the Defendant and/or speaking to aggrieved employees Plaintiff identified regarding Plaintiff's factual contentions, and conducting legal research regarding Plaintiff's claims;
- b. 15.5 hours related to litigation and/or hours related to settlement and approval of the settlement; and
- c. Approximately 6.0 hours (estimate) related to post-approval settlement administration including but not limited to answering questions from aggrieved employees regarding their payment.

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14. My hourly rate for class/PAGA action work is \$695.00. The lodestar value of the time I will have devoted to this case by the time this case is fully administered is \$41,700.00 (60.0 hours x \$695.00).

15. My office has not incurred any costs in this matter.

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

Executed on May 22, 2024 in Glendale, California


Emil Daytayan
Attorneys for Plaintiffs