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Attorneys for Plaintiff Gilberto Rosales,
on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE

GILBERTO ROSALES, on behalf of himself
and others similarly situated,

Plaintiff,

vs.

CN MOTOR COMPANY, LLC,
COADVANTAGE RESOURCES, INC., and
PROGRESSIVE EMPLOYER MANAGEMENT
COMPANY V, LLC ; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: 22STCV02678

CLASS ACTION

*[Assigned to the Honorable Lawrence J. Riff
for all purposes, Department SSC7]*

**DECLARATION OF MELISSA A.
HUETHER IN SUPPORT OF
PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Filed concurrently with Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement; Memorandum of
Points and Authorities; and [Proposed]
Order]*

Hearing Information:

Date: _____, 2023

Time: 10:30 a.m.

Dept.: SSC7

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I, Melissa A. Huether, declare:

1. I am an attorney licensed to practice law in the state of California and have been admitted to practice before this Court. I am an attorney with the law firm Lavi & Ebrahimiyan, LLP, Counsel for Plaintiff Gilberto Rosales (“Plaintiff”) in this action, and I am an attorney assigned to work on this case. Based on my assignment to this case and familiarity with the file and action in this matter; I have personal knowledge of the matters stated herein and if called and sworn as a witness, I would and could competently testify under oath thereto. I am a member in good standing of all State and Federal District Courts of California.

2. This Declaration is submitted in support of Plaintiff's Motion for Preliminary Approval of the Class Action Settlement.

12

3. The named Plaintiff worked as an hourly-paid, non-exempt employee of Defendant and seeks to represent approximately 128 current and former hourly-paid, non-exempt employees of Defendant who worked in California at any time during the Class Period. (hereinafter “Class” or “Class Members”). The Class Period shall be from January 24, 2018 through the date that is 90 calendar days after full execution of this Settlement.

4. This is a proposed employee wage and hour class action case. On January 24, 2022, Plaintiff filed a class action pursuant to complaint against Defendant for alleged violations of the California Labor Code in the Los Angeles County Superior Court against Defendant (the “Action”). Plaintiff alleged the following: (1) Failure to Pay Wages For All Hours Worked At Minimum Wage in Violation of Labor Code Sections 1194 and 1197, (2) Failure to Pay Overtime Wages for Daily Overtime Worked In Violation Of Labor Code Section 510 and 1194, (3) Failure to Authorize or Permit Meal Periods In Violation of Labor Code Sections 512 and 226.7, (4) Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7, (5) Failure to Indemnify Employees for Employment-Related Losses/Expenditures in Violation of Labor Code section 2802; (6) Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204, (7)

1 Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code Section
2 226, (8) Failure to Timely Pay All Earned Wages and Final Paychecks Due at Time of Separation of
3 Employment in Violation of Labor Code Sections 201, 202, and 203, and (9) Unfair Business
4 Practices, in Violation of Business and Professions Code Sections 17200, *et seq.* Defendant has
5 denied all claims in the Class Action.

6 5. On January 24, 2022, Plaintiff also submitted a notice to the LWDA informing it of
7 his intention to bring a claim for civil penalties pursuant to PAGA.

8 6. On May 27, 2022, Plaintiff filed a representative PAGA action in the Los Angeles
9 County Superior Court, Case No. 22SSTCV17541.

10 7. On September 8, 2022, after extensive informal discovery and data exchange, the
11 Parties attended a mediation session with Hon. Lisa Hart Cole (Ret.), a well-respected mediator
12 experienced in mediating wage and hour class and representative actions. After a full day of arm's-
13 length negotiations, the Parties reached a settlement in principle.

14 8. On February 17, 2023 Plaintiff filed a First Amended Complaint, which added
15 Plaintiff's PAGA claim to the pending Action as part of the terms of the Settlement.

16 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE:**

17 9. On September 8, 2022, the Parties participated in a full-day mediation session with
18 Hon. Lisa Hart Cole (Ret.), a highly experienced and well-regarded class action mediator. As a
19 critical part of settlement negotiations, the Parties engaged in extensive informal discovery
20 exchange where Plaintiff's counsel and Plaintiff's counsel's expert reviewed and analyzed the
21 following: a 20% sampling of time punch data, exemplar wage statements, the number of current
22 class members, number of former class members, number of workweeks, number of pay periods
23 during the PAGA Period, number of aggrieved employees, average hourly rate of pay, number of
24 employees who signed arbitration agreements, and Defendant's employee handbook. Defendant
25 also provided exemplar arbitration agreements signed by many of the Class Members at mediation.

26 10. However, Plaintiff believes that his case is suitable for class certification in that he
27 believes there were company-wide policies that affected Defendant's employees which could be

1 established using representative testimony from class members, as well as the practices brought
2 forth in informal discovery. While Plaintiff asserts that this is a case for certification, Plaintiff also
3 realizes that there is always a significant risk associated with class certification and Defendant's
4 compelling defenses to this case discussed more fully below.

5 11. The Settlement was reached as a result of arm's-length negotiations facilitated by a
6 September 8, 2022 mediation with highly regarded and experienced wage and hour mediator Hon.
7 Lisa Hart Cole (Ret.), and analysis by Plaintiff's counsel and expert witness. The Settlement
8 negotiations have been, at all times, adversarial and non-collusive in nature. While Plaintiff
9 believes in the merits of his case, he also recognizes the inherent risks of litigation and understands
10 the benefit of the Class receiving settlement funds immediately as opposed to risking an
11 unfavorable decision on class certification, summary judgment, at trial and/or the damages awarded,
12 and/or on an appeal that can take several more years to litigate.

13 12. Based on the information informally produced by Defendant, through August 29,
14 2022, Defendant employed approximately 128 (including 63 current and 65 former) non-exempt
15 employees who worked over the course of approximately 11,175 workweeks who received an
16 average rate of pay for \$19.40/hour. Based on Class Counsel's and Plaintiff's expert witness's
17 analysis of the data, the maximum exposure for Plaintiff's claims were as follows:

18 13. With regard to Plaintiff's Unpaid Wages, Plaintiff alleged that Defendant required
19 Plaintiff and other Class Members to participate in and complete off the clock trainings on their
20 personal devices. Plaintiff also alleged that he and other Class Members were required to clock out
21 for their meal periods and continue working. Plaintiff estimates that he spent approximately 5 hours
22 during the course of his employment undergoing various trainings off the clock. Therefore,
23 Plaintiff estimated there were approximately \$12,416.00 in damages for unpaid minimum wages
24 [Calculated as follows: 128 employees x 5 hours x \$19.40 avg. hourly rate = \$12,416.00].

25 14. With regard to Plaintiff's Meal Break Claim, Plaintiff alleged that he and other
26 Class Members regularly clocked out for their meal periods and continued working and therefore
27 rarely took a compliant meal period. Additionally, Plaintiff's expert review of the time data

1 showed that roughly 20% of the meal periods exhibited a late, short, or missed meal period. As
2 such, Plaintiff estimates that class members on average suffered from a maximum of 3 violations
3 per week based on the sampling and Plaintiff's allegations that he was required to clock out and
4 continue working during his meal periods. Therefore, Plaintiff estimated there was a maximum of
5 approximately \$650,385.00 in damages for meal break violations. [Calculated as follows: 11,175
6 workweeks x 3 meal period violations per week x \$19.40 avg. hourly rate = \$650,385.00].

7 15. With regard to Plaintiff's Rest Break Claim, Plaintiff alleged that Defendant failed
8 to advise, authorize, or permit Plaintiff and other Class Members of when they can take rest
9 periods. Plaintiff contends he did not ever take a rest period and it was common for no one to take
10 a rest period. Given the foregoing, the maximum that Plaintiff could recover amounted to
11 approximately \$1,083,975.00. [Calculated as follows: 11,175 workweeks x 5 rest period violations
12 per week x \$19.40 avg. hourly rate = \$1,083,975.].

13 16. With regard to Plaintiff's Unreimbursed Business Expenses, Plaintiff contended he
14 was required to use his personal tools to complete job duties but also was required to use his
15 personal cell phone or other electronic device to complete off the clock trainings without being
16 reimbursed by Defendant. Plaintiff estimated that he and other class members were owed \$5 a
17 workweek for use of their personal cell phones and tools. Given the foregoing, the maximum that
18 Plaintiff could recover amounted to approximately \$55,875.00. [Calculated as follows: 11,175
19 workweeks x \$5 unreimbursed business expenses per week = \$55,875.00].

20 17. With regard to Plaintiff's Timely Wages Claim, based on the underlying unpaid
21 wages, meal period, and rest period claims, Plaintiff alleges that Defendant failed to timely pay
22 wages during employment. The maximum that Plaintiff could recover amounted to approximately
23 \$12,600.00. [63 employees x \$200 penalty = \$12,600.]

24 18. With regard to Plaintiff's Wage Statement claim, the maximum that Plaintiff could
25 recover amounted to approximately \$512,000.00. [128 employees X \$4,000 maximum penalty =
26 \$512,000.00.]

1 19. With regard to Plaintiff's Waiting Time penalties claim, the maximum that
2 Plaintiffs could recover amounted to approximately \$293,328.00. [63 former employees X 8 hours
3 per workday X \$19.40/hour average rate of pay X 30 days = \$293,328.].

4 20. As such, Plaintiff's maximum potential recovery in this matter, excluding PAGA
5 penalties, would amount to approximately \$2,620,579.00. The settlement reached in this matter
6 was \$260,000.00 or approximately 10% of the maximum exposure.

7 21. Regarding the PAGA penalty exposure analysis, according to the data informally
8 produced by Defendant in this case, during the relevant PAGA period (from March 23, 2021 to
9 August 29, 2022 [in advance of mediation]) there are approximately 2,304 pay periods for
10 approximately 78 aggrieved employees.

11 22. Regarding the PAGA penalty exposure analysis, as an initial matter, in wage and
12 hour class action cases that settle, which are the overwhelming majority of such cases, very little of
13 the total settlement is paid to PAGA penalties in order to maximize payments to class members.
14 *See, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 589 (2010) (no abuse of discretion to
15 approve class action settlement allocating \$0 to PAGA claims); *Ceja-Corona v. CVS Pharm., Inc.*,
16 2015 U.S. Dist. LEXIS 5118, 2015 WL 222500, at *2-3 (E.D. Cal. Jan. 14, 2015) (preliminarily
17 approving \$10,000 in PAGA penalties out of a total settlement amount of \$900,000), report and
18 recommendation adopted, 2015 U.S. Dist. LEXIS 25730, 2015 WL 925598 (E.D. Cal. Mar. 3,
19 2015); *Nen Thio v. Genji, LLC*, 14 F. Supp. 3d 1324, 1330 (N.D. Cal. 2014) (preliminarily
20 approving \$10,000 in PAGA penalties out of a total settlement amount of \$1,250,000); *Franco v.*
21 *Ruiz Food Prods.*, 2012 U.S. Dist. LEXIS 169057, 2012 WL 5941801, at *14 (E.D. Cal. Nov. 27,
22 2012) (granting final approval of \$10,000 in PAGA penalties out of a total settlement amount of
23 \$2,500,000); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575,
24 at *3 (E.D. Cal. Oct. 31, 2012) (granting final approval of \$10,000 in PAGA penalties out of a total
25 settlement amount of \$3,700,000); *Chu v. Wells Fargo Invs., LLC*, 2011 U.S. Dist. LEXIS 15821,
26 2011 WL 672645, at *1 al. Feb. 16, 2011) (granting final approval of \$10,000 in PAGA penalties
27 out of a total settlement amount of \$6,900,000). In these settlements, the parties generally maximize

1 statutory penalties and minimize PAGA penalties. *See, e.g., Franco*, 2012 U.S. Dist. LEXIS
2 169057, 2012 WL 5941801, at *2, *14 (approving a \$10,000 PAGA award out of a total settlement
3 amount of \$2,500,000).

4 23. Plaintiff recognizes that PAGA claims generally settle for a mere fraction of multiple
5 “stacked” PAGA penalties as is described above, but more typically resolve for a reasonable
6 fraction of the unstacked PAGA exposure. Here, since the claims for minimum wages, overtime
7 wages, meal periods, rest periods, unreimbursed business expenses, timely wages, wage statements,
8 and waiting time penalties are all premised at least partially on the same factual basis (i.e., that class
9 members worked off the clock and were generally unable to take off duty meal and rest periods)
10 stacking these penalties could arguably be overly punitive. Instead, seeking only penalties for
11 minimum wages to account for the off the clock work and overtime wages to account for the failure
12 to properly calculate the regular rate, with the meal and rest period violations, results in far more
13 reasonable and less punitive penalties that eliminate the “stacked” penalties for each Labor Code
14 section violated as a result of the same conduct. As a result, Defendant could argue Plaintiff and the
15 aggrieved employees may only be able to recover penalties under minimum wage claim, overtime
16 wage, and meal and rest period violations. Thus, if Defendant is correct on the “stacking” issue, the
17 maximum theoretical penalties would be substantially less under Defendant’s view of the law. And
18 if the Court decided that Defendant also is correct about the initial/subsequent violation rate issue,
19 the maximum theoretical exposure would be further reduced by about half.

20 24. Second, Plaintiff’s calculation also assumes that Plaintiff’s PAGA claims could be
21 tried in a manageable manner that comports with due process, which Defendant vigorously disputes.

22 25. Third, the Court has discretion under PAGA to reduce the amount of any penalties
23 awarded for equitable reasons.

24 26. Fourth, Defendant would argue that PAGA penalties would be limited in any event.
25 As discussed in detail above, Defendant denies any liability. Moreover, Defendant would argue
26 that even if Plaintiff prevailed, the recoverable penalties under PAGA are minimal. Indeed, courts
27 to consider the issue have refused to “stack” PAGA penalties. *See Carrington v. Starbucks*

1 *Corporation* (Cal. Ct. App. Nov. 27, 2018) No. D072392 (published Dec. 19, 2018) (approving
2 PAGA penalty reduction to \$5 per pay period); *accord Atempa v. Pedrazzani* (2018) 27
3 Cal.App.5th 809. Moreover, Defendant would argue that Plaintiff is not entitled to recover PAGA
4 penalties at the subsequent violation rate of \$200 per pay period. California's appellate courts
5 have held that "[u]ntil the employer has been notified that it is violating a Labor Code provision
6 (whether or not the commissioner or court chooses to impose penalties), the employer cannot be
7 presumed to be aware [of the violation]" and therefore, until a Court or the Commissioner issues a
8 finding of a violation, the initial \$100 violation rate applies for each pay period in which the
9 alleged violation occurred. *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1209;
10 *accord Amalgamated Transit Union Local 1309 v. Laidlaw Transit Service, Inc.* (S.D. Cal. Aug.
11 10, 2009) 2009 WL 2448430, at *9 ("[u]nder California law, courts have held that employers are
12 not subject to heightened penalties for subsequent violations unless and until a court or
13 commissioner notifies the employer that it is in violation of the Labor Code"). Thus, Defendant
14 would argue that even if the Plaintiff was able to establish any violation of the Labor Code, the
15 PAGA penalties assessed for these violations will be computed at the \$100 rate, as opposed to the
16 \$100 per pay period rate at maximum, and there is a likelihood that a further reduction of the
17 penalty to \$5 per pay period as approved in *Carrington* would apply given Defendant's
18 compliance with the Labor Code as discussed above.

19 27. Finally, Plaintiff anticipates that Defendant would argue that, the Court might
20 follow the logic in *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1209 and assess
21 only the initial \$100 violation rate for each pay period (i.e. at \$100 per pay period X 2,304 pay
22 periods at issue), therefore is likely Defendant's maximum exposure is actually only \$230,400.00.
23 Defendant likely would have argued that this Court would use the *Carrington* valuation as a
24 ceiling for assessing PAGA penalties and that this amount (i.e., \$230,400 was its true "worst case
25 scenario" exposure).

26 28. In sum, the settlement in the instant case provides for a gross fund value of \$260,000
27 with a PAGA allocation of \$40,000 with 75% (\$30,000) payable to the LWDA and 25% (\$10,000)

1 distributed the Aggrieved Employees and falls squarely within the range of reasonableness for
2 PAGA allocations outlined in the case law above.

3 29. Defendant has at all times denied the claims. Specifically, with respect to
4 Plaintiff's claims for unpaid minimum wages, Defendant would likely argue that it did not require
5 Plaintiff and other Class Members to undergo trainings off the clock. To the extent that trainings
6 were required, they should have been completed on the clock. Regarding meal periods, Defendant
7 would likely argue that it properly provided timely, compliant meal periods and that it maintained
8 facially compliant meal period policies throughout the class period. With respect to Plaintiff's rest
9 period claim, Defendant would likely contend that it provided compliant written rest period
10 policies and therefore Plaintiff and the Class were on notice of what rest periods should have been
11 taken and when. Further, Defendant could argue that since records of rest periods are not
12 maintained or required to be maintained, proving rest periods violations would be extremely
13 difficult and rely on class member testimony and result in highly individualized issues. With
14 regards to Plaintiff's claims for unreimbursed business expenses, Defendant would likely argue
15 any use of personal cell phone or technological devices for trainings was minimal. Defendant
16 further would likely argue that it maintained the necessary tools at the worksite for Class
17 Members to be able to complete their job duties and to the extent a tool was necessary or needed,
18 it would have been made available. Additionally, with Defendant could contend any alleged wage
19 statement violations could not be shown to be "knowing and intentional" given its good-faith
20 defenses, and that Plaintiff cannot show he or other employees "suffer[ed] injury," as required by
21 Labor Code § 226(e). Defendant would likely argue that wage statements always accurately
22 reflected hours worked and amounts paid to employees. Defendant also could argue that wage
23 statement penalties are not recoverable at all for alleged meal and rest period violations. Given
24 Defendant's anticipated arguments that no violations occurred, that Class Members suffered no
25 "injury," that any alleged violations were not "knowing and intentional," and that meal and rest
26 period claims cannot support wage statement penalties. Based on the foregoing, Defendant
27 concluded, Plaintiff and Class Members were paid out upon separation of employment for all wages

1 owed, and that Defendant believed, in good faith, that it was properly paying all wages to separating
2 employees. In other words, Defendant concluded, Plaintiff would not be able to establish the
3 willful elements of their Labor Code sections 226 or 203 claims. Significantly, Defendant
4 contended that the vast majority of Class Members signed valid and enforceable arbitration of
5 agreements which would likely have precluded a the case from proceeding as a class action. For
6 these reasons, Defendant concluded, Plaintiff would not likely prevail on their claims.

7 30. This is a fair and reasonable result. Other substantial benefits also include that it is
8 a non-reversionary, non-claims made settlement, which distributes the Net Settlement Amount on a
9 pro rata basis based on the number of Workweeks each Participating Class Member worked for
10 Defendant during the Class Period. (Settlement, §3.2.4.). The 25% portion of the PAGA Settlement
11 Amount allocated to Aggrieved Employees will be distributed to each Aggrieved Employee who
12 worked during the PAGA Period based on their individual number of PAGA Period Pay Periods
13 during the PAGA Period. (Settlement, §3.2.5.1). Settlement Class Members will have one hundred
14 eighty (180) to cash their checks. Any funds not distributed after the expiration of the Individual
15 Class Payment checks shall escheat to the California Controller's Unclaimed Property Fund to in
16 the name of the Class Member. (Settlement, § 4.4.3.)

17 **EXPERIENCE OF CLASS COUNSEL:**

18 31. The attorneys at our office are experienced and qualified to evaluate the class claims
19 and to evaluate settlement versus trial on a fully informed basis, and to evaluate the viability of the
20 defenses. The partner of the firm who was lead counsel on this matter, Mr. Joseph Lavi, has been
21 practicing law for nearly 20 years. I have been practicing law for nearly four years. Mr. Lavi,
22 myself, and the other members of my firm, have almost exclusively practiced in the area of labor
23 and employment law. Mr. Lavi has handled numerous cases in all aspects of employment and labor
24 law, including state and federal class actions, including wrongful termination, retaliation, and
25 harassment actions. I have handled numerous wage and hour class actions and representative
26 actions. Mr. Lavi has tried both labor and employment cases in State and Federal court, and has
27 argued before various Court of Appeals, on employment issues such as validity of Arbitration

1 Agreements, Application of Res Judicata in class action cases as well as other employment issues.
2 Mr. Lavi has also been a panelist and/or speaker for various Employment Law Continuing Legal
3 Education Panels on issues of employment law trials, how to proceed and conduct trials as well as
4 proving and winning punitive damages. Mr. Lavi has also been named a Southern California Super
5 Lawyer in the area of Plaintiff's employment litigation- class action from 2011-2022. Mr. Lavi has
6 been approved as class counsel by both federal and state Courts. Mr. Lavi, myself, and the other
7 attorneys at Lavi & Ebrahimi who are available to assist us in this case if needed are fully capable
8 of adequately and fairly representing Plaintiffs and the proposed class in this matter. Lavi &
9 Ebrahimi, LLP, has been appointed Class Counsel in over fifty contested proceedings including
10 the following:

11 a. *Ischak v. Kaiser Foundation Hospitals, Inc.*, Los Angeles Superior Court
12 Case No. BC343535;

13 b. *Santana v. El Pollo Loco, Inc.*, Los Angeles Superior Court Case No.
14 BC369846;

15 c. *Edlin, et al. v. Fuddruggers, Inc.*, United States District Court, Central
16 District of California, Case No. CV-07-3678-ABC;

17 d. *Chavez, et al. vs. CEC Entertainment, Inc. d/b/a Chukee-Cheeses*, Los
18 Angeles Superior Court Case No. BC380996;

19 e. *Bustamante, et al. v. Teamone Employment Specialists*, Los Angeles Superior
20 Court Case No. BC383266;

21 f. *Cervantes, et al. v. Kaiser Foundation Hospitals, Inc.*, Alameda Superior
22 Court Case No. RG 0265835;

23 g. *Seng Savang v. Club One Casino*; Fresno Superior Court Case No.
24 05CECG02189;

25 h. *Norman, et al. v. Movado Retail Group, Inc.*, United States District Court,
26 Central District of California, Case No. CV08-06691 SVW (PLA);

27 i. *Shand v. G.A.L.A., Inc. dba Giorgio Armani*, Los Angeles Superior Court
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Case No. BC342588;

g. *Solis v. Plycraft Industries, Inc.*, Los Angeles Superior Court Case No. BC374816;

h. *Campos v. HWB Carwash, Inc.*, Los Angeles Superior Court Case No. BC378990;

i. *Acosta, et al. v. Texwood Industries*, United States District Court, Central District of California, Case No. CV07-3237-DDP (PLAX);

h. *Arevalo v. Gruma Corporation*, Los Angeles Superior Court Case No. BC410322;

j. *Burrola v. American Promotional Events*, Los Angeles Superior Court Case No. BC412315;

k. *Cortez v. Trader Distribution Services*, Los Angeles Superior Court Case No. BC397208;

l. *Cueva v. Allied Industries, Inc.*, Los Angeles Superior Court Case No. BC399431;

m. *Del Toro v. Petco Animal Supplies, Inc.*, San Diego Superior Court Case No. 37-2009-00103626-CU-OE-CTL;

n. *Garcia v. Home Cooking, Inc.*, Los Angeles Superior Court Case No. BC451148;

o. *Alcantar v. Amerimax Building Products, Inc.*, United States District Court, Central District of California, Case No. CV 10-8916 DDP (CWx);

p. *Arancivias v. Clougherty Packaging, LLC dba Farmer John*, Los Angeles Superior Court Case No. BC432406;

q. *Barajas v. Menzies Aviation, Inc.*, United States District Court, Central District of California, Case No CV-10-02315-JEM;

r. *Barrera v. BHFC Operating, LLC dba Bottega Louie*, Los Angeles Superior Court Case No. BC462603;

1 s. *Camacho v. American Textile Maintenance Co.*, Los Angeles Superior
2 Court Case No. BC452570;
3 t. *Cortes v. Monsanto Company*, Ventura Superior Court Case No. 56-2010-
4 00366952-CU-OE-VTA;
5 u. *Escobar v. Aero-Electric Connector, Inc.*, Los Angeles Superior Court Case
6 No. BC421009;
7 v. *Gomez v. Bacara Resort & Spa*, Santa Barbara Superior Court Case No.
8 1341987;
9 w. *Gonzalez v. Ashley Furniture Industries, Inc.*, Los Angeles Superior Court
10 Case No. BC425708;
11 x. *Gonzalez v. Burrtec Waste Industries, Inc.*, Los Angeles Superior Court Case
12 No. BC436879;
13 y. *Gutierrez v. Visterra Credit Union*, Riverside Superior Court Case No.
14 RIC10020183;
15 z. *Hernandez v. Kruse & Son, Inc.*, Los Angeles Superior Court Case No.
16 BC411849;
17 aa. *Lopez v. Tecno Industrial Engineering*, Los Angeles Superior Court Case No.
18 BC411134;
19 bb. *Lowanga v. Continental Currency Services, Inc.*, Orange County Superior
20 Court Case No. 30-2011-0044011-CU-OE-CXC;
21 cc. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central
22 District of California, Case No. CV 10-0415 ODW (FMOx)
23 dd. *Lozada v. Classic Party Rentals, Inc.*, Los Angeles Superior Court Case No.
24 BC443792;
25 ee. *Madrid v. OPI Products, Inc.*, Los Angeles Superior Court Case No.
26 BC451489;
27 ff. *Martinez v. J. Fletcher Creamer & Son, Inc.*, United States District Court
28

Case No. CV 10-0968-PSG-FMOX;

gg. *Martinez v. Administaff Companies II, L.P.*, Los Angeles Superior Court Case No. BC425799;

hh. *Martinez v. Morgans Hotel Group Management, LLC*, Los Angeles Superior Court Case No. BC446744;

jj. *Sanchez v. La Brea Bakery, Inc.*, Los Angeles Superior Court Case No. BC456420;

ii. *Montenegro v. Ruggeri Marble and Granite, Inc.*, United States District Court, Central District of California, Case No. CV-10-00711 JFW (PLAx);

kk. *Reed v. 99 Cents Only Stores*, Los Angeles Superior Court Case No. BC436793;

ll. *Santos v. Noble Management Group-California, LLC*, United States District Court, Central District of California, Case No. CV 10-2594 DSF (VBKx)

mm. *Taylor v. U.S. Healthworks Holding Company, Inc.*, Orange County Superior Court Case No. 30-2011-00473505;

nn. *Valencia Diaz v. Gene Wheeler Farms, Inc.*, Los Angeles Superior Court Case No. BC436235;

oo. *Zad-Behtooie v. Valley Village*, Los Angeles Superior Court Case No. BC451490;

pp. *Bell v. Aidells Sausage Company, Inc.*, Alameda Superior Court Case No. RG10523946;

qq. *Negrete v. Cenveo, Inc.*, United States District Court, Central District of California, Case No. CV 11-09543 DSF (MRWx);

rr. *Bejar v. Exopack-Ontario, Inc.*, Orange County Superior Court Case No. 30-2011-00518396-CU-OE-CXC;

ss. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central District of California, Case No. CV 10-0415 ODW (FMOx);

1 tt. *Sparks v. Larry Flynt dba Hustler Casino*, Los Angeles Superior Court Case
2 No. BC320172;

3 uu. *Morris v. Chevron Stations, Inc.*, Los Angeles Superior Court Case No.
4 BC361380;

5 vv. *Marino v. BP West Coast Products, LLC*, Los Angeles Superior Court Case
6 No. BC357987.

7 32. Mr. Lavi and I and the other attorneys at the firm made every effort to litigate this
8 action in an efficient and cost-effective manner. Given his years of experience, his trial and
9 appellate experience, and the focus of his practice, if Mr. Lavi were to charge for his type of work
10 by the hour, his current hourly rate would be \$925 per hour. My hourly rate would be \$575 per
11 hour. This rate is the firm's current billing rate and is supported by the extensive and specialized
12 experience in these types of cases and recognized expertise described. I have personal knowledge of
13 the hourly rates charged by other attorneys with comparable experience to both Mr. Lavi's and
14 mine. Based on that information, I believe that my rates are fully consistent with the market rate for
15 attorneys with comparable expertise, experience and qualifications. Based on the information I
16 have, I believe that our rates are reasonable and appropriate fees for Los Angeles attorneys with
17 comparable expertise, experience, and qualifications.

18 33. The specific work performed by my firm in prosecuting this action has included, but
19 not been limited to: preparing the pleadings, extensive informal discovery exchange which included
20 the following: Defendant's relevant policies and procedures and review, compilation, and analysis
21 by Plaintiff's counsel and Plaintiff's counsel's expert of the following: a 20% sampling of time
22 punch data, exemplar wage statements, the number of current class members, number of former
23 class members, number of workweeks, number of pay periods during the PAGA Period, number
24 of aggrieved employees, average hourly rate of pay, number of employees who signed arbitration
25 agreements, and Defendant's employee handbook; reviewing documents; analyzing the data;
26 participating in settlement negotiations; participating in a full-day mediation; negotiating, drafting,
27 and reviewing settlement agreement as well as drafting Motion for Preliminary Approval.

1 34. Our firm maintains all records regarding costs expended on each case. I have
2 reviewed the records of costs expended in this matter. According to our records, our firm has
3 incurred significant costs in the amount of at least \$10,000 to date (including the mediation fee and
4 expert fees collectively over \$6,000) and will likely incur additional costs to see this matter through
5 final judgment. This amount includes costs associated with the costs associated with filing of the
6 papers filed and responded to in this matter, service of process for the summons and complaint, and
7 mediation fees.

8 **CONTRIBUTION OF PLAINTIFF AND REASONABLENESS OF THE REQUESTED**
9 **SERVICE PAYMENT:**

10 35. It is imperative that Plaintiff obtain just compensation for the time, effort and risk
11 associated with his fiduciary duties as a class representative and named Plaintiff. I believe that the
12 named Plaintiff performed considerable services on behalf of the Class during the last 14 months,
13 since he searched for an attorney, collected and gathered the requested documents and information,
14 wage statements and/or pay stubs, met with us, made himself available each and every single time
15 that I called him in order to answer questions about Defendant's policies and procedures produced
16 in informal discovery or discussed during conversations with opposing counsel or raised in
17 pleadings filed in this matter. The named Plaintiff provided Class Counsel with factual information
18 needed to prepare the complaints. He collected relevant documents and produced those documents
19 to Class Counsel. He continued to be engaged in continued settlement negotiations that were
20 ultimately required to reach a settlement in this case. I believe that the service award request of
21 \$3,000 to Plaintiff as a service award is fair and reasonable. As such, the requested payment is
22 warranted for his time and effort when the class members are able to receive significant benefits for
23 his efforts, as well as the fact that he put himself at significant risk for liability for costs in this
24 matter if Defendant were the prevailing party in the litigation as well as for retaliation by other
25 employers who may discover and find it to be unappealing that he was class representative in a
26 lawsuit against Defendant, his former employers. At this point in the approval process, Plaintiff's
27
28

1 requested payment should be approved and allow the Class Members an opportunity to object to the
2 requested enhancement.

3 36. A true and correct copy of the Class and PAGA Action Settlement Agreement and
4 Release (“Settlement” or “Settlement Agreement”) is hereto attached as **Exhibit 1.**

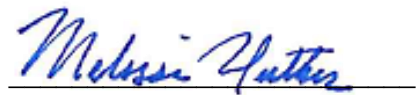
5 37. Attached as **Exhibit 1** to the Class Action and PAGA Settlement Agreement is a true
6 and correct copy of the proposed Class Notice.

7 38. A true and correct copy of the redline version of the Class and PAGA Action
8 Settlement Agreement and Release (“Settlement” or “Settlement Agreement”) is hereto attached as
9 **Exhibit 2.**

10 39. A true and correct copy of Plaintiff’s January 21, 2022 notice to the LWDA is hereto
11 attached as **Exhibit 3.**

12 40. On February 17, 2023, a copy of the Settlement was submitted via online submission
13 to the LWDA. A true and correct copy of the LWDA’s email confirmation of my upload of the
14 Stipulation is hereto attached as **Exhibit 4.**

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed this 17th day of February 2023, at Beverly Hills, California.

17
18
19 
20 Melissa A. Huether