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Attorneys for Plaintiffs and the putative class

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DONNIE MARQUEZ, MARIKA FLEEGER,
and SHALON JONES, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

PEET'S COFFEE, and DOES 1 through 10,
inclusive,

Defendant.

Case No. CIV2201507

**DECLARATION OF CAMAR R. JONES,
ESQ. IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
SETTLEMENT**

Date: 10/08/2024

Time: 1:30 pm

Hon. Stephen P. Freccero

Dept. A

1 I, CAMAR JONES, hereby declare and state:

2 1. I am counsel of record for Plaintiffs DONNIE MARQUEZ, MARIKA FLEEGER and
3 SHALON JONES (collectively, "Plaintiffs") in the above-entitled action. The contents of this
4 declaration are based on my own personal knowledge such that if called to testify, I could and would
5 competently testify thereto.
6

7 **Background**

8 2. The parties have reached a settlement of this action in the amount of \$1,450,000.00,
9 for which they are now seeking court approval. The proposed settlement, if approved, will fully
10 resolve all claims between Plaintiffs and Defendant that are pending before this Court. The proposed
11 settlement covers certain wage and hour claims on behalf of Plaintiffs and all other individuals
12 employed by Defendant as Managers (as defined in paragraph 4 below) who were employed within
13 the State of California from May 19, 2018 to May 1, 2024 ("Class Members").
14

15 **Litigation History**

16 3. Plaintiffs initially filed a Notice of Claim with California Labor and Workforce
17 Development Agency on February 10, 2023. Thereafter, on May 19, 2023, Plaintiffs brought this
18 putative class action on behalf of all Managers employed by Defendant in California on or after May
19 19, 2018. On June 22, 2022, Plaintiffs filed the operative First Amended complaint substituting
20 Jazmin Cruz with Marika Fleegeer as a Named Plaintiff, and added the claim pursuant to California
21 Private Attorney General Act of 2004 ("PAGA").
22

23 4. Plaintiffs filed their class and PAGA representative action alleging claims for
24 unreimbursed work expenses, unpaid wages, and related statutory claims under California Labor
25 Code on behalf of themselves and a class of non-exempt, hourly-paid, Store Managers, Assistant
26 Managers and Shift Leaders (collectively referred to herein as "Managers") at any time after May
27

1 19, 2018.¹ Plaintiffs alleged in their Complaint that Defendant: (a) failed to reimburse Managers for
2 expenses relating to the use of their mobile phones to perform work-related tasks; (b) failed to
3 compensate Managers with minimum wage and overtime compensation for hours spent engaging in
4 work-related communications while working off-the-clock; (c) failed to provide Managers meal and
5 rest breaks as a result of having to use their mobile phones when on break; (d) failed to pay Managers
6 at their regular rates when paying meal and rest period premiums, overtime premiums, and sick pay
7 premiums; (e) failed to provide Managers accurate, itemized wage statements because their wage
8 statements did not reflect all hours worked as a result of off-the-clock work and premium pay; and
9 (f) failed to timely pay Managers all wages owed upon the termination of employment.
10

11 5. In their Complaint, Plaintiffs alleged that *first*, as Managers, they engaged in work-
12 related tasks for which they were not compensated because they received text messages and phone
13 calls from their DMs regarding assigned tasks, product availability, staffing, and other operational
14 issues. Plaintiffs contended that DMs called and texted them multiple times per day, including during
15 their days off, before or after scheduled hours, and during a meal or rest breaks. In addition to
16 communicating with their DMs, Plaintiffs contend that Managers routinely communicated with their
17 locations and addressed issues that occur inside the Defendant's locations as they arose, even when
18 they were not scheduled to work, and were off- the-clock. These issues included product availability,
19 staff/store coverage, and customer service issues.
20

21 6. *Second*, Plaintiffs alleged that Defendant failed to reimburse Managers for expenses
22 relating to the use of their mobile phones to perform work-related tasks. Plaintiffs alleged that
23 Managers were required to use their own phones and pay for their own mobile phone and data plans
24 so that they would be able to field calls and text messages for Peets' business.
25
26

27 ¹ After significant discovery, Plaintiffs decided not to pursue the claim on behalf of the Shift Leaders.
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7. **Third**, Plaintiffs alleged that they were paid meal, rest period and sick pay premiums at their base hourly rates rather than the regular rate of pay, which should have included all non-discretionary compensation. Defendant admits this was the case until December 31, 2021.

8. ***Fourth***, Plaintiffs asserted derivative claims that Defendant failed to provide Managers accurate, itemized wage statements because their wage statements did not reflect all hours worked as a result of off-the-clock work, did not accurately reflect their premium pay, and Defendant failed to timely pay Managers all wages owed upon the termination of employment.

9. ***Finally***, Plaintiffs asserted a claim pursuant to PAGA for civil remedies relating to the aforementioned violations by the Defendant.

10. Defendant denied the allegations asserted in the Complaint.

11. In September 2022, Plaintiffs initially served Special Interrogatories and a Request for Production on Defendant. In response to discovery, over the next nine (9) months, Defendant provided: (a) the personnel files for Plaintiffs; (b) company policies including, timekeeping and expense reimbursement policies; (b) wage statements for the Plaintiffs; (c) payroll summaries and time records for all of the Managers in Microsoft Excel format containing over 1,600,000 lines of data; (d) contact information for a 500-person sample of Managers; and (e) the identities of individuals who complained to Defendant about off the clock work during the relevant period. Defendant also provided summary class data outlining the number of potential Managers under each of the three relevant job titles, their average hourly rates, and the number weeks and pay periods they worked during the PAGA 1 year statute of limitations period, as well as the number of weeks they worked within the statutes of limitations under the FLSA and California Labor Code.

12. Plaintiffs' Counsel prepared a survey to the Managers in the sample regarding their use of their personal mobile phones for work-related purposes, the frequency of off-the-clock

communications, and compensation/reimbursement they received from PEET'S (if any). Fifty-four (54) managers responded to the survey, who informed Plaintiffs' Counsel that:

- They all used their personal phones for work-related purposes.
- They all received calls, emails or texts on their personal phone on their days off.
- They all stated that their supervisors knew they were using their personal phones to perform work for PEET'S during and outside of scheduled hours.
- 98% of them stated that they did not get paid for having to take calls, emails or texts on their personal phone on their days off.
- 80% of them stated that they were interrupted during their meal or rest break with calls, emails or texts on their personal phone related to PEET'S work.
- 94% of them stated they did not receive any reimbursement for the cost of using their personal mobile phone.

Plaintiffs' Counsel also collected 41 declarations from the Class Members to support class certification.

13. In discovery, Defendant further admitted that it did not pay Managers at their regular rate of pay (as opposed to base hourly rate) for meal and rest break premium payments, and sick pay premiums until January 2022. Defendant also admitted that although it paid almost \$300,000 in other expense reimbursements, there were zero reimbursements for personal mobile phone expenses.

14. The Parties used this discovery and the summary class data to calculate the potential exposure for the Managers, and engage in settlement discussions facilitated by experienced wage and hour mediator, Mark Peters, Esq. on September 5, 2023. The parties were unsuccessful at mediation. As a result, the parties continued with further discovery, which included the depositions of two corporate representative witnesses of Defendant. The parties also fully briefed and argued a Motion to Compel Defendant's production of corporate representative(s) to testify on one of the specific topics to which Defendant objected in Plaintiff's Notice of Deposition which the Court granted on April 12, 2024. Plaintiffs then filed their Motion for Class Certification on April 16, 2024, on behalf of Store Managers and Assistant Managers, only.

1 15. The Parties have since reached a settlement, the terms of which are memorialized in
2 the parties Joint Stipulation of Class and Representative Action Settlement Agreement and Release
3 (“Joint Stipulation”).

4 16. The proposed Settlement Administrator, CPT Group, has agreed to cap its fee at
5 \$10,000.00. *See* Ex. 2. Class Counsel solicited bids from three other well-known settlement
6 administrators and CPT Group was the most competitive.

7 **SLG’s Background**
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9 17. I am an attorney at Shavitz Law Group, P.A. (“SLG”) and am counsel for Plaintiffs
10 in this matter. SLG is an 8-attorney firm based in Boca Raton, Florida, with an office in New York
11 City that focuses on representing workers as plaintiffs in employment-related matters, including
12 claims based upon individual and class-wide violations of state and federal wage and hour laws.

13 18. SLG has significant experience prosecuting wage and hour class and collective
14 actions such as this one.

15 19. Since the founding of SLG in 1999, the firm has represented tens of thousands of
16 employees in unpaid overtime and minimum wage claims in actions across the United States. The
17 firm is highly experienced in collective and class action litigation for unpaid wages.

18 20. In recent years, the firm has served or been appointed as class counsel or co-class
19 counsel in the following cases, among others:
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21 *Fiore v. Goodyear Tire & Rubber Co.*, No. 09 cv 843 (M.D. Fla.);

22 *Hosier v. Mattress Firm, Inc.*, No. 10 cv 00294 (M.D. Fla.);

23 *Romero v. Florida Power & Light Co.*, No. 09 cv 1401 (M.D. Fla.);

24 *Saliford v. Regions Fin. Corp. et al.*, No. 10 cv 610310 (S.D. Fla.);

25 *Raley v. Kohl's Corp., et al.*, No. 09 cv2340 (M.D. Fla.);

26 *Simpkins v. Pulte Home Corp.*, No. 08 cv 00130 (M.D. Fla.);
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1 *Biscoe-Grey v. Sears Holding Corp.*, No. 09 cv 81408 (S.D. Fla.);
2 *Mayfield v. Lennar Corp.*, No. 08 cv 426 (M.D. Fla.);
3 *Cerrone v. KB Home Florida, LLC et al.*, No. 07 cv 14402 (S.D. Fla.);
4 *Lewis v. Iowa Coll. Acq. Corp. & Kaplan Higher Educ. Corp.*, No. 08 cv 61011 (M.D. Fla.);
5 *Patterson v. Palm Beach Cnty. Sch. Bd.*, No. 07 cv 80240 (S.D. Fla.);
6 *Briggs, et. al. v. PNC Fin. Servs. Gr., Inc., et al.*, No. 15 cv 10447 (N.D. Ill.);
7 *Williams, et al. v. Follett Corporation, et al.*, No. 17 cv 02318 (N.D. Ill.);
8 *Watson v. BMO Financial Corp., et al.*, No. 15 cv 11881 (N.D. Ill.);
9 *McCue v. MB Financial, Inc. et al.*, No. 15 cv 988 (N.D. Ill.);
10 *Robbins v. Abercrombie & Fitch Co.*, No. 15 cv 6187 (W.D.N.Y.);
11 *Besic v. Byline Bank, Inc., et al.*, No.15 cv 8003 (N.D. Ill.);
12 *Snodgrass v. Bob Evans Farms, Inc.*, No. 12 cv 768 (S.D. Ohio);
13 *Waggoner v. U.S. Bancorp. et al.*, No. 14 cv 1626 (N.D. Ohio);
14 *Kampfer v. Fifth Third Bank*, No. 14 cv 2849 (N.D. Ohio);
15 *Danley v. Office Depot, Inc., et al.*, No. 14 cv 81469 (S.D. Fla.);
16 *Essex v. The Children's Place, Inc.*, No. 15 cv 05621 (D.N.J.);
17 *Krokos, et al v. The Fresh Market, Inc.*, No. 16 cv 12082 (D.Mass.);
18 *Long v. HSBC USA Inc.*, No. 14 cv 6233 (S.D.N.Y.);
19 *Prena v. BMO Financial Corp., et al.*, No.14 cv 09175 (N.D. Ill.);
20 *Puglisi v. TD Bank N.A.*, No. 13 cv 6037 (E.D.N.Y.);
21 *Roberts v. TJX Cos., Inc., et al.*, No. 13 cv 13142 (D. Mass.);
22 *Stallard v. Fifth Third Bank, et al.,* No. 12 cv 01092 (W.D.Pa.);
23 *Amador v. Morgan Stanley & Co, LLC*. No. 11 cv 4326 (S.D.N.Y.);
24 *Wright v. Flagstar Bank FSB et al.*, No. 13 cv 15069 (E.D. Mich.);

1 *Zeltser v. Merrill Lynch & Co., Inc., et al.*, No. 13 cv 1531 (S.D.N.Y.);

2 *Clem v. Keybank, N.A.*, No. 13 cv 789 (S.D.N.Y.);

3 *Yuzary v. HSBC Bank USA, N.A.*, No. 12 cv 3693 (S.D.N.Y.);

4 *Beckman v. KeyBank, N.A.*, No. 12 cv. 7836 (S.D.N.Y.);

5 *Hernandez v. Merrill Lynch & Co., Inc., et al.*, No. 11 cv 8472 (S.D.N.Y.);

6 *Palacio v. E*TRADE Fin. Corp., et al.*, No. 10 cv 4030 (S.D.N.Y.);

7 *Stewart v. Prince Telecom, et al.*, No. 10 cv 4881 (S.D.N.Y.);

8 *Nash v. CVS Caremark Corp.*, No. 09 cv 79 (D.R.I.);

9 *Cottle v. Papa Murphy's Company Stores, Inc.*, No. 3:19-cv-45 (M.D. Fla.).

10 21. I have been an attorney with SLG since 2009. I have 20 years' experience litigating
11 employment matters under state and federal anti-discrimination and wage and hour laws. Prior to
12 joining SLG, I worked as an associate attorney with the Fort Lauderdale labor and employment
13 boutique, The Amlong Firm, representing plaintiffs in discrimination, unpaid wages and FLSA
14 claims throughout South Florida, and with The Kopelowitz Ostrow Firm, PA, where I represented
15 plaintiffs in discrimination, unpaid wages, FLSA, USERRA claims, and FMLA claims. Additionally,
16 I have counseled employers on compliance with the various state and federal labor and employment
17 laws, defended employers in claims filed by employees, and represented employers in enforcing non-
18 compete and trade secret agreements. I currently represent plaintiffs in collective actions in Federal
19 Courts throughout the country, and I have tried multiple cases to verdict. I received my Juris Doctor
20 degree from Stetson University College of Law in 2003. I am admitted to the Florida Bar, the U.S.
21 District Courts for the Southern, Middle, and Northern Districts of Florida, and the District of
22 Colorado, as well as the Eleventh Circuit Court of Appeals. I am also AV-Preeminent rated by
23 LexisNexis Martindale-Hubbell, and have been named a "Rising Star" and "SuperLawyer" every
24 year since 2013.
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1 22. Alan Quiles has been an attorney with SLG since 2014. He has focused his practice
2 in the area of employment law, specifically in the recovery of unpaid wages, overtime and minimum
3 wages. Mr. Quiles has over 28 years of legal experience and has represented employees and
4 employers in employment claims in State and Federal Courts since 1997. His experience includes
5 representing clients in State and Federal discrimination claims, FLSA claims, FMLA claims,
6 WARN Act claims, OSHA, ERISA, COBRA, State minimum and unpaid wage claims, State
7 unemployment claims, State and Federal whistleblower claims, workers' compensation retaliation
8 claims, and HIV/AIDS discrimination claims. He has also represented employees through the
9 EEOC and State administrative processes and represented employees in arbitration proceedings
10 before the NASD (now FINRA), AAA and others, and has FLSA collective action trial experience.
11 Mr. Quiles has also successfully litigated non-compete and trade secret claims, and has represented
12 clients in appellate matters at all levels of the state and federal appellate system. Mr. Quiles has
13 published articles on various employment law issues and presented seminars on employment law
14 issues. Mr. Quiles is a 1995 graduate of Cornell University School of Law. He received his Bachelor
15 of Arts in Psychology, *cum laude*, from the University of Houston. He is a member of the Florida
16 and Texas State Bars and admitted to practice in the U.S. District Courts for the Southern and
17 Eastern Districts of Texas, the District of Colorado and the Southern and Middle Districts of Florida,
18 as well as the United States Courts of Appeals for the Ninth and Eleventh Circuits. He is also rated
19 AV-Preeminent by Martindale Hubble.
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22 23. Gregg Shavitz is a graduate of the University of Miami School of Law with an
23 undergraduate degree from Tufts University. Mr. Shavitz is an experienced trial attorney with a
24 practice that concentrates on representing plaintiffs in unpaid wage litigation involving the FLSA,
25 and state laws. Mr. Shavitz has represented tens of thousands of such plaintiffs over that period of
26 time. Additionally, he has lectured in the past at seminars sponsored by the Labor and Employment
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1 Section of the Florida Bar, and has spoken at the Labor and Employment Section Certification
2 Review Seminar on two (2) separate occasions as well as the Academy of Florida Trial Lawyers
3 Workhorse Seminars. He has also been awarded Florida Trend Magazine's Legal Elite for various
4 years including 2014 in the area of Labor & Employment law; South Florida Legal Guide – Top
5 Lawyer – Wage and Hour law – 2009-2019; Top Lawyer Up and Comer – Wage and Hour law –
6 2004, 2006, and 2009; and South Florida Legal Guide – Top Lawyers List – 2009-2019; among other
7 awards and honors. Mr. Shavitz has also earned the distinction of Top Lawyer in Palm Beach
8 Illustrated (2018), and is a lifelong fellow of the Florida Bar Foundation. Mr. Shavitz has held the
9 highest AV Peer Review Rating from LexisNexis Martindale-Hubbell for preeminent attorneys from
10 2000 to the present. Mr. Shavitz has been admitted to the Florida Bar since 1994, and is also admitted
11 to U.S. District Courts for the Southern, Middle and Northern Districts of Florida, the U.S. Eleventh
12 Circuit Court of Appeals and U.S. Third Circuit Court of Appeals.
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14 Executed this 9th day of July, 2024 in Fort Lauderdale, Broward County, Florida.

15
16 /s/ Camar R. Jones
17 CAMAR JONES
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