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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

HECTOR J. MEJIA on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

WALMART INC., a Delaware corporation;
and DOES 1 through 10, inclusive,

Defendant.

Case No.: CIVSB-2207614

[Assigned for all purposes to the Hon. David E.
Driscoll, Dept. S22]

**DECLARATION OF B. JAMES
FITZPATRICK IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 19, 2023

Time: 8:30 a.m.

Dept.: S22

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I, B. James Fitzpatrick, declare as follows:

1. I am an attorney duly admitted to practice in the State of California and am a partner in the law firm of Fitzpatrick & Swanston, counsel of record for Plaintiffs Dearl Powell, Christina Gast, and Elijha Gonzalez (“Plaintiffs”) in the above-entitled action. I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. From the inception of the case, Plaintiffs' counsel have zealously represented the interests of the class. The settlement was obtained for the benefit of the class, as opposed to the individual Plaintiffs.

3. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in extensive arms' length negotiations taking place among Plaintiffs and Defendants Wal-Mart, Inc., Wal-Mart Associates, Inc. and Wal-Mart Stores, Inc. (collectively, "Defendants") (Plaintiffs and Defendants collectively, the "Parties").

4. Based on their own independent investigation and evaluation, the Parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in the Joint Stipulation of Class and Representative Action Settlement are fair, reasonable, and adequate and the settlement is in the best interests of the Class and Defendant in light of all known circumstances and the expenses and risks inherent in litigation. Plaintiffs are aware that Defendants may raise defenses on the reduction of civil penalties pursuant to the Private Attorneys General Act (the “PAGA”) and that these arguments could be persuasive to the Court. Thus, even if Plaintiffs were to successfully prove their claims at trial, there is a possibility that the Court may only award a small percentage of the maximum PAGA penalties, as the Court has discretion to do so. The Maximum Settlement Amount was premised with these risks in mind associated with the possibility of the Court denying class certification, refusing to award waiting time penalties, and significantly reducing Plaintiffs’ PAGA penalties, along with other attendant risks.

5. Plaintiffs and Plaintiffs' counsel also believe in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiffs in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of appeals.

6. I am one of the attorneys on this matter. My qualifications are as follows: I received my bachelor's degree from the University of California, Santa Barbara and my Juris Doctor degree from the University of Santa Clara School of Law. I have practiced law since 1987. The primary emphasis of my practice is employment litigation. I have represented both employers and employees. Approximately 15 years ago my office commenced handling plaintiff class action wage and hour cases. Since then, my office has handled hundreds of wage and hour cases to conclusion and has been class counsel and/or co-counsel in over 100 class actions.

7. Currently, we have multiple ongoing wage and hour class actions in Alameda County Superior Court, Monterey County Superior Court, Nevada County Superior Court, Santa Clara Superior Court, San Benito Superior Court, Santa Cruz Superior Court, Ventura County Superior Court, and the United States District Court, Northern District of California, where we will seek class certification by way of a settlement or a class certification motion.

8. I will adequately represent the Class Members in this action. Plaintiffs' counsel has and will zealously represent Plaintiffs and the Class and pursue this lawsuit to its conclusion. I have no conflicts with the Class and will adequately represent the Class.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed by me on October 13, 2023, in Salinas, California.

B. James Fitzpatrick