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Attorneys for Plaintiff Victor De La Cruz and the Class

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

VICTOR DE LA CRUZ, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

NORTHWEST PIPE COMPANY, an Oregon
corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No. CIVSB2211140

Honorable Joseph T. Ortiz
Department S17

**DECLARATION OF MIRIAM L. SCHIMMEL
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT, ATTORNEYS'
FEES AND COSTS, ENHANCEMENT
PAYMENT, AND SETTLEMENT
ADMINISTRATION COSTS**

Date: September 18, 2024
Time: 1:30 p.m.
Dept: S17

Complaint Filed: May 25, 2022
FAC Filed: February 2, 2023
Trial Date: Not Set

DECLARATION OF MIRIAM L. SCHIMMEL

I, Miriam L. Schimmel, declare and state as follows:

1. I am an attorney duly licensed to practice law in all Courts of the State of California. I am a Senior Attorney with the law firm of Blackstone Law, APC (“Blackstone”), attorneys of record for Plaintiff Victor De La Cruz (“Plaintiff”). I have personal knowledge of the facts contained herein, and if called to testify, I could and would competently do so.

2. I am fully familiar with the legal and factual issues in this matter and have specific experience litigating complex wage and hour actions as class actions, including employment cases as set forth above.

3. I obtained my Bachelor of Arts degree in Political Science from the University of California at Los Angeles in 1992. Thereafter, I received my law degree from Loyola Law School in 1996 and was admitted to the California State Bar in December 1996. During law school, I clerked for the Honorable Judges Stephen M. Lachs and Michael Berg of the Los Angeles Superior Court.

4. Since my admission to the Bar, I have devoted my practice to a wide variety of litigation matters on both the plaintiff and defense side, including general business, toxic tort, medical device, and pharmaceutical matters. I was also part of the lead litigation team that prosecuted the coordinated civil lawsuits for negligent hire/retention/employment for abuse inflicted by clergy employed by the Catholic church in California. I was also significantly involved representing homeowners in the multitude of Truth-In-Lending-Act class action lawsuits filed against various financial institutions in connection with this country’s 2008 collapse of the mortgage industry.

5. Since 2010, my practice has been devoted almost entirely to employment litigation consisting of wage and hour class actions and representative actions pursuant to the Private Attorneys General Act (“PAGA”), as well as individual actions based on violations of the Fair Employment and Housing Act (“FEHA”). Approximately 75% of my work in this regard has been on behalf of employees (plaintiffs), while the remaining 25% was on behalf of employers/businesses. On many of those cases, I was the senior lead attorney managing the litigation and overseeing other attorneys. In that capacity, I obtained extensive experience analyzing potential wage and hour and wrongful termination claims for viability; took and defended hundreds of depositions; propounded and

1 responded to discovery; prepared and opposed a wide variety of motions and pleadings, including
2 dispositive and certification motions, as well as settlement approval motions; strategized on all cases;
3 participated in and directed communication with class members; attended hearings; led and
4 participated in mediations; coordinated with class action administrators; prepared and worked with
5 experts; and engaged in all other related aspects of litigation in state, federal, complex, and appellate
6 courts.

7 6. I joined Blackstone in June 2022, following ten years of working with two well-known
8 plaintiff-side wage and hour law firms in Los Angeles. My billable rate is \$1,050. This is well within
9 the prevailing rate for attorneys with my experience in my area of practice in Southern California.

10 7. The attorneys at Blackstone possess combined extensive experience litigating wage and
11 hour and other complex litigation matters. In that regard, I refer first to the Declaration of Jonathan
12 M. Genish filed concurrently with the motion for final approval as evidence of his experience and
13 credentials in support of this matter. His billable rate is \$1,150.

14 8. Jill Parker is a former attorney at Blackstone who worked on this matter. She earned
15 her Juris Doctor degree in 2010 from the University of Southern California Gould School of Law. She
16 was admitted to the State Bar of California in December of 2010. She graduated from the University
17 of California, Los Angeles with a Master of Arts degree in 2007, after having graduated from Leland
18 Stanford Junior University with a Bachelor of Arts degree in 2003. Ms. Parker's billable rate was
19 \$695 at the time she performed the work on this matter.

20 9. Joana Fang is a highly skilled eight-year lawyer who is part of the team at Blackstone
21 that litigated this matter. She is a 2015 graduate of Loyola Law School, and a 2011 graduate of
22 University of California, Berkeley where she was a double major in Legal Studies and Media Studies.
23 Since passing the Bar, Ms. Fang has exclusively represented plaintiffs in wage and hour litigation, as
24 well as catastrophic injury complex litigation. Her hourly rate of \$750 is reasonable based on her
25 education and experience and is in line with the market rate.

26 10. Alexandra Rose joined Blackstone from a highly reputable employment law firm. She
27 graduated from the University of California, Los Angeles with a Bachelor of Arts degree in 2016 and
28 from New England Law | Boston with a Juris Doctor degree in 2019. She was admitted to the State

Bar of California in December of 2019. Her hourly rate of \$695 is reasonable based on her education and experience and is in line with the market rate.

11. Blackstone has spent approximately 197.60 total hours litigating this matter. To date, our total fees incurred amount to \$172,142. Each attorney who worked on this matter engaged in a multitude of tasks including communicating with the client and defense counsel; investigating the facts and researching applicable legal issues; drafting pleadings; reviewing documents; preparing for and attending mediation; and facilitating the settlement by drafting the settlement documents and documents for obtaining settlement approval. A summary of Blackstone's lodestar for each attorney who worked on this case is as follows:

<u>Attorney</u>	<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Jonathan M. Genish	Managing Partner	15.60	\$1,150	\$17,940
Miriam L. Schimmel	Senior Counsel	70.30	\$1,050	\$73,815
Jill Parker	Senior Counsel	2.20	\$695	\$1,529
Joana Fang	Senior Associate	50.10	\$750	\$37,575
Alexandra Rose	Associate	59.40	\$695	\$41,283

12. We expect to spend an additional 10 hours (\$10,500) in connection with finalizing the motion for final approval and supporting documents, preparing for and attending the Final Approval Hearing, and managing the Settlement through its conclusion, including anticipated communications with defense counsel, the Settlement Administrator, our client, and Class Members. Based thereon, the total amount of Blackstone's fees through closure of this case are estimated to be approximately \$182,642.

13. One difficulty in determining the hourly rate of attorneys of similar skill and experience in the relevant community is the scarcity of hourly fee-paying clients in class action litigation. As a practical matter, few if any employees or consumers pay attorneys' fees on an hourly basis for such extensive litigation, and thus retainer agreements in such cases are based on a stepped-up contingency fee (with the percentage increasing from one third to forty-five – and sometimes even fifty percent, which is on par with personal injury contingency fee agreements – if the case goes to trial).

1 Therefore, there is no customary hourly billing rate for work that is routinely based on a contingent fee
2 relationship, but the nature of class action work should be strongly considered by the Court. Wage and
3 hour work presents a specialized and challenging area of law that is not within the knowledge of many
4 lawyers. This kind of class action work requires specialized learning and the willingness to take large
5 risks.

6 14. As with all contingency cases, I understand that my firm had to consider its workload
7 when agreeing to pursue this litigation. Specifically, the firm had to be mindful of its attorneys'
8 caseload when it took on this matter, as well as consider this matter when contemplating taking on
9 additional work that was available. Blackstone cannot accept all potential wage and hour matters on
10 behalf of potential clients and has to balance the matters it accepts and declines in light of its caseload
11 when new matters are presented.

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

14 Executed on August 26, 2024, at Beverly Hills, California.

15 Miriam L. Schimmel
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