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8 GENARO REYES VILLAGRA, and all others similarly situated

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SANTA BARBARA**

12 **(UNLIMITED JURISDICTION)**

13 GENARO REYES VILLAGRA, on behalf of
14 himself and all others similarly situated, and the
15 general public, and as an “aggrieved employee”
16 on behalf of himself and other similarly situated
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

17 *Plaintiff(s),*

18 vs.

19 INNOVATIVE PRODUCE, INC., a California
20 corporation; and DOES 1–50, inclusive,

21 *Defendant(s).*

Case No.: 22CV02747

[Consolidated with 22CV02744]

**DECLARATION OF LOUIS M.
BENOWITZ IN SUPPORT OF
PLAINTIFF GENARO REYES
VILLAGRA’S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: May 21, 2024

Hearing Time: 8:30 a.m.

Hearing Dept.: 2, The Honorable
James F. Rigali

Action filed: July 18, 2022

Trial Date: Not Set



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1 **DECLARATION OF LOUIS M. BENOWITZ IN SUPPORT OF MOTION FOR**
2 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

3 I, LOUIS M. BENOWITZ, declare as follows:

4 1. I am an attorney duly licensed to practice law in the State of California and am an
5 attorney of record for Plaintiff Genaro Reyes Villagra (“Plaintiff”) in his lawsuit against
6 Defendant Innovative Produce, Inc. (“Defendant”). I am a member in good standing of the State
7 Bar of California. I make this Declaration in support of Plaintiff’s Motion for Preliminary
8 Approval of Class Action Settlement. I make this Declaration based on my personal knowledge
9 and if called to testify I could and would competently testify to the matters contained in this
10 Declaration.

11 2. Based on my extensive experience in class and representative wage and hour
12 litigation (as set forth herein), and for the reasons set forth in Plaintiffs’ Motion and the other
13 supporting Declarations, I believe that the settlement in this case is fair, adequate, and reasonable,
14 and thus warrants this Court’s approval.

15 3. I completed my undergraduate studies at Cornell University in Ithaca, New York,
16 where I was admitted as a Pauline and Irving Tanner Dean’s Scholar and earned a Bachelor of
17 Arts degree in English in May of 2003. I completed my legal studies at Loyola Law School in
18 Los Angeles, California, where I received a Juris Doctor degree in May of 2008 and graduated in
19 the top 15% of my class. At Loyola Law School, I served as Research Editor on the Loyola of
20 Los Angeles Entertainment Law Review, was a member of the Scott Moot Court Honors Board
21 and the St. Thomas More Law Honor Society, and was a research assistant to Professor Theodore
22 Seto.

23 4. Since being admitted to the State Bar of California in February of 2009 after
24 passing the California Bar Examination on my first attempt, I have almost exclusively practiced
25 in the areas of civil litigation and employment law. I am a member of the California Employment
26 Lawyers Association (“CELA”), and the vast majority of my work during my time in active legal
27 practice has consisted of wage and hour and other employment law cases on behalf of employees,
28 with a few matters on behalf of employers. I currently have numerous pending employment law
cases at various stages of litigation, the majority of which are wage and hour class actions.

 5. With respect to wage and hour class actions specifically, a sampling of matters in
which I have been appointed as class counsel is as follows:



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1 a. *Vang v. Burlington Coat Factory Warehouse Corp., et al.*, U.S. District
2 Court, Central District of California, No. 09-CV-8061-CAS (appointed class counsel and granted
3 final approval of settlement on behalf of retail store employees in case involving, among other
4 things, alleged vacation pay forfeitures, failures to provide meal and rest periods, and failures to
5 pay overtime wages based on employee misclassification).

6 b. *Garcia v. Am. Gen. Fin. Mgmt. Corp., et al.*, U.S. District Court, Central
7 District of California, No. 09-CV-1916-DMG (appointed class counsel and granted final approval
8 of settlement on behalf of account managers in case involving, among other things, alleged
9 overtime miscalculations and meal and rest period violations).

10 c. *Cerdenia v. USA Truck, Inc.*, U.S. District Court, Central District of
11 California, Case No. 10-CV-1489-JVS (appointed class counsel and granted final approval of
12 settlement on behalf of truck drivers).

13 d. *Jones v. Shred-It, Inc.*, U.S. District Court, Central District of California,
14 Case No. 2:11-cv-00526-SVW-FFM (appointed class counsel and granted final approval of
15 settlement on behalf of customer service representatives and balers in case involving alleged off-
16 the-clock work and meal and rest period violations).

17 e. *Douglas v. California Credit Union*, Los Angeles Superior Court, Case No.
18 BC445050 (appointed class counsel and granted final approval of settlement on behalf of
19 customer service representatives for overtime miscalculation claims)

20 f. *Alvarez v. Gary Grace Enterprises, LP*, Marin Superior Court, Case No.
21 CIV 1002553 (appointed class counsel and granted final approval of settlement on behalf of hair
22 salon employees for overtime miscalculation and related claims).

23 g. *Calderon v. Greatcall, Inc.*, San Diego Superior Court, Case No. 37-2010-
24 00093743-CU-OE-CTL (appointed class counsel and granted final approval of settlement on
25 behalf of customer service employees in case involving, among other things, alleged meal and
26 rest period violations and overtime calculation errors).

27 h. *Butler v. Lexxiom, Inc.*, San Bernardino Superior Court, Case No. CIVRS
28 1001579 (appointed class counsel and granted final approval of settlement on behalf of debt
resolution center employees in case involving, among other things, alleged meal and rest period
violations and overtime calculation errors).

i. *Valencia v. SCIS Air Security Corp.*, Los Angeles Superior Court, Case

No. BC421485 (granted class certification through contested motion and appointed class counsel in case on behalf of former security workers based on late final wage payments in violation of Labor Code §§ 201–203; also granted final of proposed class action settlement on behalf of certified class).

j. *Sandoval v. Rite Aid Corp.*, Los Angeles County Superior Court, Case No. BC431249 (granted class certification through contested motion and appointed class counsel in case on behalf of former pharmacy employees based on late final wage payments in violation of Labor Code §§ 201–203; also granted final approval of class action settlement on behalf of certified class).

6. In addition to the class actions for which I am currently, or have been, an attorney of record, I have also performed work on several other wage and hour class action cases, including the preparation of liability exposure analyses and settlement approval motions. Further, both before and during law school, I worked as a law clerk for the Law Offices of Spivak and Harrison (now The Spivak Law Firm), where the majority of my work consisted of law and motion and discovery in California employment law cases.

7. Though not a traditional class action, I successfully prosecuted an eleven-day bench trial with David Spivak, one of my co-counsel in this action, in the case of *Alina Ghrdilyan, et al. v. RJ Financial, Inc., et al.*, Los Angeles Superior Court, Case No. BC430633 (2012), the Honorable Ronald Sohigian presiding. To my knowledge, this is the first and only case to be successfully prosecuted through trial in a non-class representative capacity under the Labor Code Private Attorney Generals Act of 2004, Labor Code § 2698 *et seq.* on behalf of both named plaintiffs and aggrieved employees against someone other than an employer for civil penalties including unpaid wages. The case involves claims of unpaid overtime, unprovided rest and meal periods, unpaid vacation, untimely interval and final wages, and unreimbursed expenses.

8. In addition to my experience in representing plaintiffs in class action litigation, I also represented two of the defendants the case of *Sam Jaicaman v. Mustafa Ertan Tuysuzoglu, et al.*, Los Angeles Superior Court, Case No. BC467147. In that case, a putative wage and hour class action alleging off-the-clock, meal and rest period, and related claims, I, along with counsel for other defendants, successfully opposed the plaintiff's motion for class certification.

9. I authored and submitted an amicus curiae brief on behalf of CELA in support of the plaintiffs and the certified class in the case of *Augustus v. ABM Security Services, Inc.* at both



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1 the Court of Appeal and Supreme Court levels. The ultimate decision from the Supreme Court in
2 favor of the plaintiffs incorporates much of the reasoning and arguments set forth in my briefs.

3 10. I am also one of the counsel for the plaintiff in *Troester v. Starbucks Corp.*, which
4 the California Supreme Court resolved in favor of the plaintiff. I have been involved in that case
5 at all points since its inception. In that case, the California Supreme Court decided that a de
6 minimis exception does not exist under California law as a defense to wage and hour claims
(unlike under federal law) and thus expanded the rights of employees in California.

7 11. I have also been counsel for the plaintiffs in two recent successful appeals in
8 employment law cases. In *Alejandro Chavez v. Southern California Edison Co.*, Court of Appeal,
9 Second Appellate District, Division Two, Case No. B253514, a male-on-male sexual harassment
10 case, my co-counsel and I obtained a reversal of a defense verdict after trial based on an erroneous
11 jury instruction with respect to the standard for establishing that workplace harassment is
12 “because of” sex. In *Valencia v. SCIS Air Security Corporation*, Court of Appeal, Second
13 Appellate District, Division One, Case No. B255199, in a published opinion, my co-counsel and
14 I obtained reversals of a denial of class certification and a grant of summary adjudication based
15 on the trial court’s drawing of an erroneous conclusion with respect to Airline Deregulation Act
16 preemption in a case centering around alleged meal and rest period violations and related unpaid
time.

17 12. I have no conflicts of interest with the class or with the Class Representative. I am
18 not related to the representative plaintiff. I have not previously represented Defendant in any
19 matter. I do not represent opposing factions within the class in that all claims are predicated upon
20 the same theories of liability and benefit all class members equally. In sum, I am well-suited to
21 act as Class Counsel and will continue to vigorously represent the interests of the class.

22 13. I am not aware of any class, representative, or other collective action in any
23 other court, in this, or any other jurisdiction, that asserts claims similar to those asserted in
24 this action, on behalf of the class or group of individuals, some or all of whom would also be
25 members of the class to find in this action. I have made a reasonable inquiry of the other
26 members of my law firm to determine whether they are aware of any such similar actions.
Based on these inquiries, I am aware of no such similar actions.

27 14. For the reasons set forth in the Memorandum of Points and Authorities in Support
28 of Plaintiff’s Motion for Approval of Preliminary Approval of Class Action Settlement and the



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1 supporting declarations, I concur that the Settlement is a fair, adequate, and reasonable
2 compromise of the disputed claims in this case in view of the risks of continued litigation.

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

5 Executed on Wednesday, April 25, 2024 at Los Angeles, California.

6 

7 LOUIS M. BENOWITZ,
8 Declarant
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