

Larry W. Lee (State Bar No. 228175)

lwlee@diversitylaw.com

Kristen Agnew (State Bar No. 247656)

kagnew@diversitylaw.com

Nicholas Rosenthal (State Bar No. 268297)

nrosenthal@diversitylaw.com

Max W. Gavron (State Bar No. 291697)

mgavron@diversitylaw.com

DIVERSITY LAW GROUP, A Professional Corporation

515 S. Figueroa St., Suite 1250

Los Angeles, CA 90071

(213) 488-6555

(213) 488-6554 facsimile

WILLIAM L. MARDER, ESQ. (State Bar No. 170131)

Polaris Law Group LLP

501 San Benito Street, Suite 200

Hollister, CA 95023

Tel: (831) 531-4214

Fax: (831) 634-0333

Email: bill@polarislawgroup.com

Dennis S. Hyun (State Bar No. 224240)

dhyun@hyunlegal.com

HYUN LEGAL, APC

515 S. Figueroa St., Suite 1250

Los Angeles, CA 90071

(213) 488-6555

(213) 488-6554 facsimile

Attorneys for Plaintiff and the Class

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ERIC CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

CONVERSE, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 15-cv-03746-NC

**DECLARATION OF NICHOLAS
ROSENTHAN IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: November 20, 2020

Time: 1:00 p.m.

Courtroom: 5, 4th Floor

Judge: Hon. Nathanael Cousins

DECLARATION OF NICHOLAS ROSENTHAL

I, Nicholas Rosenthal, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff Eric Chavez ("Plaintiff"). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. I am one of the primary attorneys on this matter. My qualifications are as follows: I received my JD from University of Southern California Gould School of Law in 2009. Upon graduation, I practiced law as an associate at Seyfarth Shaw LLP, representing corporate clients in both single-plaintiff and wage hour class actions. In 2014, I began as an associate at Diversity Law Group.

3. I have handled a number of wage and hour matters including class actions and multiple-plaintiff actions. I have been named as Class Counsel in a number of class actions that have been granted certification or preliminary or final approval by the Superior Courts of Los Angeles County, Orange County, Alameda County, and Monterey County, the United States District Court for the Central District of California, and the United States District Court for the Northern District of California. These cases include, but are not limited to: *Naranjo v. Bank of America*, Northern District of California Case No. 5:14-cv-02748-LHK, *Chavez v. Converse, Inc.*, Northern District of California Case No. 15-cv-03746-NC, *Rodriguez v. Nike Retail Services, Inc.*, Northern District of California Case No. 5:14-cv-01508-BLF, *Figueroa v. Super King Market*, Los Angeles Superior Court Case No. BC538372, *Diller v. Under Armour Retail, Inc.*, Santa Clara County Superior Court Case No. 114-CV-265729, *Dall v. Post Alarm Systems*, Los Angeles County Superior Court Case No. BC598528, *Lopez v. Imperial Body Shop, Inc.*, Orange County Superior Court Case No. Case No. 30-2015-00816193-CU-OE-CXC, *Esqueda v. Sonic Automotive Inc.*, Orange County Superior Case No. 30-2016-00877924-CU-OE-CXC, *Obiols v. Lockheed Martin Corporation*, Santa Clara County Superior Court Case No. 17CV314178; *Sanchez v. American Para Professional Systems, Inc.*, Santa Clara County Superior Court Case No. 17CV306751, *Mankin v. Taste Catering*, San Mateo Superior Court Case No. 17-CIV-03497, *Hughes v. Lincare, Inc., et al.*, Monterey Superior Court Case No. M124764, *Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Harris v. 24 Seven LLC*, Los Angeles County Superior Court

Case No. BC720144; *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191; *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132; and *Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139.

4. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in extensive arms' length negotiations taking place among the Parties, including one full day of mediation and a settlement conference before the Honorable Nathanael M. Cousins. 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 Class Action Settlement Agreement are fair, reasonable, and adequate and the settlement is in the best interests of the Settlement Class and Defendant in light of all known circumstances and the expenses and risks inherent in litigation.

5. Plaintiff's counsel also took numerous depositions of parties and witnesses. This included depositions of Defendant's FRCP 30(b)(6) Corporate Representatives on various topics that impacted class certification and liability. Furthermore, over the course of the litigation, Plaintiff took the depositions of over 25 current and former employees of Defendant located throughout the State of California, as well as numerous expert depositions.

6. Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on his certified class claims at trial and the possibility of appeals.

7. Plaintiff and Plaintiff's counsel are adequate representatives in that they have no conflicts with the class and will adequately represent the class.

8. To date, I have incurred approximately 428.3 hours in connection with the litigation of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred to date.

9. The total lodestar for my hours will be approximately \$278,395 based on an hourly rate of \$650.00 per hour. I have been approved at an hourly rate of \$650.00 by numerous courts, including in the matters of *Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Della Maggiora v.*

1 *Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191; *Pittman v.*
2 *Martinez Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132;
3 *Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139; *Siron*
4 *v. Raypak, Inc.*, Ventura County Superior Court Case No. 56-2019-00527959-CU-OE-VTA; *Carter v.*
5 *Kline Services, Inc.*, San Bernardino County Superior Court Case No. CIVDS1828867; and *Sanchez v.*
6 *Examone Worldwide, Inc.*, Santa Clara Superior Court Case No. 17CV308382.

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

9 Executed on this 16th day of October, 2020, at Los Angeles, California.

10
11 /s/ Nicholas Rosenthal

12 Nicholas Rosenthal
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Chavez v Converse, Inc.
Time and Task Chart for Nick Rosenthal

Hours	Description of Work
3.2	Review deposition transcript of Defendant PMK witness K. Kiefer.
9.4	Preparation for deposition of Defendant PMK witness C. May
3.5	Deposition of Defendant PMK witness C. May
13.7	Draft Opposition to Defendant's Motion for Summary Adjudication on unpaid overtime claim based upon improper calculation of regular rate
12.8	Attend and argue Defendant's Motion for Summary Adjudication; preparation for arguments
27.8	Draft Motion for Class Certification; review Plaintiff and PMK deposition transcripts and relevant exhibits
15.0	Attend and argue Plaintiff's Motion for Class Certification
14.1	Draft Plaintiff's portion of Joint Discovery Brief regarding production of class member time and pay records
6.2	Draft Plaintiff's portion of Joint Discovery Brief regarding number of class member depositions
134.9	Class member depositions; associated travel and preparation
58.5	Draft Opposition to Defendant's Motion for Summary Judgment re: <i>de minimis</i> ; associated legal research, review of deposition transcripts and exhibits; review Defendant's expert report
23.8	Depositions of Defendant's expert's staff re: report
17.3	Attend and argue in opposition to Defendant's MSJ; associated preparation
12.9	Assist in preparation of partial MSJ on issue of employer control; assist in drafting reply
11.9	Attend and argue in support of Plaintiff's partial MSJ; associated preparation
8.6	Assist in drafting of opposition to Defendant's partial MSJ on 203 and 226 penalties
14.3	Attend and argue in opposition to Defendant's partial MSJ; associated preparation
5.5	Edits to mediation brief
8.7	Attend mediation
2.3	Edits to settlement agreement
13.7	Draft Motion for Preliminary Approval and associated documents
10.2	Draft Motion for Final Approval and associated documents
428.3	TOTAL HOURS