

KINGSLEY SZAMET & LY

ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleylawyers.com
LIANE KATZENSTEIN LY, Esq. (SBN 259230)
liane@kingsleylawyers.com
JESSICA BULAON, Esq. (SBN 340749)
jessi@kingsleylawyers.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Telephone: (818) 990-8300
Fax: (818) 990-2903

ABRAMSON LABOR GROUP

WILLIAM ZEV ABRAMSON, Esq. (SBN 289387)
Wza@abramsonlabor.com
11846 Ventura Blvd, Suite 100
Studio City, CA 91604
Tel: (213) 493-6300, Fax (213) 382-4083

Attorneys for Plaintiff and the aggrieved employees
[Additional Counsel Listed On Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE**

ENVY AZEVEDO, an individual, on behalf
of herself and others similarly situated,

PLAINTIFF,

v.

TULARE NURSING & REHABILITATION
HOSPITAL, INC.; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

Case No. VCU293325

[Case Assigned for All Purposes to Hon. David
C. Mathias in Dept. 1]

**DECLARATION OF JOHN G. YSLAS IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT**

Date: November 21, 2024
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 14, 2022
Trial Date: None Set

1 John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
2 Diego Aviles (SBN 315533)
diego.aviles@wilshirelawfirm.com
3 Harry Erganyan (SBN 333091)
harry.erganyan@wilshirelawfirm.com
4 Mariam Nazaretyan (SBN 334154)
mariam.nazaretyan@wilshirelawfirm.com
5 **WILSHIRE LAW FIRM**
3055 Wilshire Blvd., 12th Floor
6 Los Angeles, California 90010
Telephone: (213) 381-9988
7 Facsimile: (213) 381-9989

8 Attorneys for Plaintiff and the aggrieved employees
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I, John G. Yslas, state and declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Envy Azevedo (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Approval of Representative Action Settlement.

CASE BACKGROUND

2. This is a Private Attorney General Act (“PAGA”) (Cal. Lab. Code §§ 2699, et seq.) representative action. Plaintiff and aggrieved worked in California as hourly-paid or non-exempt employees for Tulare Nursing & Rehabilitation Hospital, Inc. (“Defendant Tulare Nursing”) and Tulare Healthcare & Wellness Center, LP (“Defendant Tulare Healthcare”) (collectively, “Defendants”) during the PAGA period. Defendants are a nursing home and rehabilitation facility, located in Tulare, California.

3. On or about September 23, 2022, I caused my office to submit, on behalf of Plaintiff, a notice to Defendant Tulare Healthcare and the Labor & Workforce Development Agency (“LWDA”) alleging that Defendant Tulare Healthcare at times violated the Labor Code and the Industrial Welfare Commission Wage Order, giving rise to similar wage and hour violations pursuant to PAGA.

4. On or about February 27, 2023, Plaintiff filed a PAGA Representative Action in Tulare County Superior Court, Case No. VCU296181, seeking civil penalties pursuant to PAGA based on the following claims: (1) Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages; (2) Failure to Provide Meal Periods; (3) Failure to Authorize and Permit Rest Periods; (4) Failure to Pay All Earned Wages Twice Per Month; (5) Failure to Maintain Accurate Records of Hours Worked and Meal Periods; (6) Failure to Timely Pay All

1 Wages at Termination; (7) Failure to Furnish Accurate Itemized Wage Statements; and (8) Failure
2 to Indemnify for Necessary Expenditures (the “PAGA Action”).

3 5. In or around September 2023, my office learned that Plaintiff had asserted similar
4 wage and hour claims against Defendant Tulare Nursing in Tulare County Superior Court in a
5 separate putative class action, represented by different Plaintiff’s counsel, Kingsley Szamet & Ly.
6 Our firm also learned that the class action complaint had been amended to add an additional claim
7 for civil penalties under PAGA. Thereafter, after Kingsley Szmat & Ly learned that Plaintiff had
8 signed an arbitration agreement, Plaintiff and Defendant Tulare Nursing filed a stipulation to
9 dismiss the class claims and stay the PAGA claims. Our firm and Kingsley Szmat & Ly agreed to
10 jointly prosecute Plaintiff’s PAGA action and filed a stipulation accordingly.

11 6. On February 21, 2024, our firm filed a request for dismissal of Plaintiff’s individual
12 and PAGA representative claims without prejudice in the PAGA Action, which was granted on
13 March 6, 2024. Thereafter, our firm and Kingsley Szmat & Ly agreed to attend mediation on behalf
14 of Plaintiff.

15 7. Following mediation, as a part of the settlement reached, in or around July 2024,
16 Kingsley Szamet & Ly filed a Second Amended complaint adding additional claims under PAGA
17 that were alleged in Plaintiff’s September 23, 2022 letter to the Labor Workforce Development
18 Agency (“LWDA”), as well as an additional defendant, Defendant Tulare Healthcare.

19 WORK I HAVE CONDUCTED DURING LITIGATION

20 8. To date, my office has incurred \$ 8,355.24 in costs in the course with this litigation,
21 which is in addition to the \$9,878.47 in costs co-counsel Liane Katzenstein Ly set out in her
22 declaration.

23 9. In the early stages of the PAGA Action, my office thoroughly investigated the
24 Labor Code violations, drafted, and filed a letter notifying the LWDA and Defendant Tulare
25 Healthcare of the violations in accordance with PAGA requirements, and drafted and filed the
26 complaint for the PAGA Action.

27 / / /

1 10. Following the filing of the PAGA action, the parties exchanged documents and
2 information before mediating this action. Prior to mediation, Plaintiff obtained, through informal
3 discovery, personnel records pertaining to Plaintiff; data including total number of current and
4 former hourly paid and non-exempt employees during the statutory period; total number of
5 workweeks and pay periods; average and median hourly rates of pay; all timekeeping and payroll
6 records for class members; employee handbooks; and other wage and hour policy documents.

7 11. After reviewing documents regarding Defendants' wage and hour policies and
8 practices, and analyzing Defendants' timekeeping and payroll records, I was able to evaluate the
9 probability of the action proceeding on a representative basis under PAGA, success on the merits,
10 and Defendants' maximum monetary exposure for all claims. I also investigated the applicable
11 law regarding the claims and defenses asserted in the instant matter. I reviewed these records and
12 utilized an expert to prepare a damages analysis prior to mediation.

13 12. Prior to mediation, my office drafted and submitted a mediation brief along with
14 Kingsley Szamet & Ly. On or about May 6, 2024, I attended a full-day private mediation with
15 experienced wage and hour mediator, Hon. Zaven Sinanian. After extensive negotiations and
16 discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendants' defenses,
17 the parties were able to reach a resolution.

18 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

19 13. I have conducted a thorough investigation into the facts of this case. Based on the
20 foregoing discovery and my own independent investigation and evaluation, I am of the opinion
21 that the settlement is fair, reasonable, and adequate and is in the best interest of the aggrieved
22 employees and the State of California in light of all known facts and circumstances, the risk of
23 significant delay, the risks of Defendants' inability to pay a substantial judgment, the defenses that
24 could be asserted by Defendants, trial risk, and appellate risk.

25 14. I have been intimately involved in all aspects of handling this case including
26 preparing this case for mediation, evaluating potential exposure and merits (including strengths
27 and weaknesses of the case) and directly negotiating the terms of the settlement of this matter. I
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1 have reviewed co-counsel Liane Katzenstein Ly's declaration, and I concur in the joint analysis
2 set forth in that declaration.

3 MY EXPERIENCE AND QUALIFICATIONS

4 15. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
5 Report as one of the nation's Best Law Firms since 2020 and is comprised of more than 100
6 attorneys and over 600 employees. Wilshire Law Firm, PLC is actively and continuously
7 practicing in employment litigation, representing employees in both individual and class actions
8 in both state and federal courts throughout California.

9 16. Wilshire Law Firm, PLC is qualified to handle this litigation because its attorneys
10 are experienced in litigating Labor Code violations in both individual, class action, and
11 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
12 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
13 and data privacy litigation.

14 17. I graduated from the University of California, Santa Barbara with High Honors in
15 1991 with Bachelor of Arts degrees in Psychology. I received my Juris Doctor from UCLA Law
16 School in 1996.

17 18. Upon graduating from law school in 1996, I worked for a boutique law firm
18 practicing general litigation which included employment law matters. Since 2000 (that is, the last
19 24 years) my practice has been exclusively focused on labor and employment matters including
20 handling wage and hour class, collective and representative actions (including the California
21 Private Attorneys General Act, or "PAGA"), including in the international law firms of Morgan,
22 Lewis & Bockius LLP (where I was a senior associate), Foley & Lardner LLP (where I was a
23 partner and a national Vice Chair of the Labor and Employment Group), Norton Rose Fulbright
24 LLP (where I was a partner) and Seyfarth Shaw (where I was a partner and member of the Wage
25 and Hour Practice Group). During my time at these law firms, I was the primary attorney or took
26 a major leading role in defending employers on numerous wage and hour class, collective and
27 representative actions.

1 19. In 2022 I left Seyfarth Shaw and joined my current firm, Wilshire Law Firm, PLC,
2 to represent plaintiff employees. I have been, and am, handling many wage and hour class and
3 representative actions litigating such matters on behalf of plaintiff employees in numerous
4 Superior Courts and District Courts. From matters representing both plaintiffs and defendants, I
5 have successfully mediated the resolution of many wage and hour class, collective, and
6 representative actions. After joining Wilshire Law Firm, PLC (and thus, joining the plaintiff's bar),
7 I have already successfully mediated matters in which I have been counsel or co-counsel resulting
8 in over \$65 million in settlements which are in the process of being finalized, and with numerous
9 upcoming mediations scheduled. In those and numerous other matters, I have managed and
10 assisted with the litigation and settlement of many wage and hour PAGA and class actions. In
11 those actions, I performed similar tasks as those performed in the course of prosecuting this action.

12 20. I have received numerous awards for my legal work. For example, from 2015 to
13 2018, I was listed in Los Angeles Super Lawyers for Employment Litigation (Thomson Reuters).
14 I have also served on numerous prominent boards and in other leadership positions, including
15 currently serving as Southern California Regional President for the Hispanic National Bar
16 Association and on the board of directors of the Mexican American Bar Foundation. I also
17 previously served on the 5-member Los Angeles Civil Service Commission, which generally
18 oversees the personnel decisions for the City of Los Angeles.

19 21. I have also published numerous blogs on labor and employment issues including
20 on wage and hour issues. For example, I published "Headline News: Wal-Mart v. Dukes-Impact
21 on Class Action Litigation" (while a partner with Foley & Lardner LLP) and "Are You Really
22 Protected from Wage-and-Hour Successor Liability in an Asset Purchase" (while a partner with
23 Seyfarth Shaw LLP). I have also been a presenter at numerous conferences, including being a
24 presenter involving the "Employment Law Update" at a National Employment Law Council
25 conference.

26 22. My current contingent billing rate of \$850.00 per hour is consistent with my
27 practice area, experience including as a former partner in international law firms, numerous awards
28

received, legal market and accepted hourly rates:

a. In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town Anymore,” NATIONAL LAW JOURNAL, the following hourly billing rates were reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of wage-and-hour class actions that I opposed when litigating wage-and-hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th Year - \$455. I am a 27th year attorney and Senior Partner, with most of my experience in class action litigation as a primary practice area. Having worked as a partner for several well-known international law firms on the defense side, and achieved numerous outstanding results on the plaintiff’s side this past year, respectfully, my hourly rate should be adjusted upward.

23. Based on the work that I had to complete as part of this case, I worked at least 45 hours on this matter, amounting to \$38,250.00 in fees.

24. Diego Aviles is a seventh-year Senior Attorney at Wilshire Law Firm. His current contingent hourly rate is \$650 per hour. He graduated from the University of California, Irvine with a Bachelor of Arts in Political Science as well as a Bachelor of Arts in Criminology, Law, and Society, and received his Juris Doctor from the Santa Clara University School of Law in 2015. During law school, he was President for the Santa Clara Employment Law Society, Board Member of the Honors Moot Court, and President of the Santa Clara University La Raza Chapter. He clerked for the Equal Employment Opportunity Commission in San Francisco, California, and also worked with the Workers Rights Clinic in San Jose, California, among other employment law firms. He was admitted to practice law in the State of California in 2017. Since graduating from law school, he has focused his legal work exclusively on employment matters, including wage-and-hour class action and PAGA representative action litigation, and he has helped obtain dozens of settlements on behalf of California workers. He has previously been appointed Class Counsel numerous times in California and most recently achieved a published California Appellate opinion

1 in the matter of *Alberto v. Cambrian Homecare, et al.*, 91 Cal.App.5th 482 regarding employment
2 arbitration agreements. He has also been a member of the California Employment Lawyers
3 Association (CELA) since at least 2019. I am informed and believe that Diego Aviles worked at
4 least 23 hours for a total of \$14,950.00.

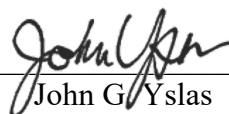
5 25. Harry Erganyan is a fourth-year Associate Attorney at Wilshire Law Firm, PLC.
6 He was admitted to practice law in the State of California in 2021. Harry graduated from Loyola
7 Marymount University, with a Bachelor of Arts in Political Science. He received his Juris Doctor
8 from Southwestern Law School. During law school, he externed for the Los Angeles City
9 Attorney. Since January 2021, his practice has mainly been focused on wage and hour class action
10 litigation. His current contingent billing rate is \$550 per hour. I am informed and believe Harry
11 Erganyan worked at least 12 hours for a total of \$6,600.00 in fees.

12 26. Mariam Nazaretyan is a fourth-year Associate Attorney at Wilshire Law Firm,
13 PLC. She was admitted to practice law in the State of California in 2021. Mariam graduated from
14 Loyola Marymount University with a Bachelor of Arts in Political Science. She received her Juris
15 Doctor from Southwestern Law School. During law school, she was a student editor for the Journal
16 of International Media and Entertainment Law and secretary of the Student Bar Association. Since
17 graduating, her practice has been focused on international humanitarian law and employment law.
18 Her current billing rate for this case \$450 per hour. Mariam Nazaretyan worked at least 15.6 hours
19 for a total of \$7,020.00 in fees.

20 27. In sum, our office collectively accrued \$66,820.00 in attorneys' fees, which does
21 not even include time our paralegals and legal assistants spent, which is considerable.

22
23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Executed this 28th day of October, 2024, in Los Angeles, California.

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John G. Yslas

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On October 29, 2024, I served all interested parties in this action the following documents described as: **DECLARATION OF JOHN G. YSLAS IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

FISHER & PHILLIPS, LLP

Grace Y. Horoupian

ghoroupian@fisherphillips.com

Joshua D. Klein

jdklein@fisherphillips.com

Kristina Buan

kbuan@fisherphillips.com

2050 Main Street, Suite 1000

Irvine, CA 92614

WILSHIRE LAW FIRM

John G. Yslas

john.yslas@wilshirelawfirm.com

Diego Aviles

diego.aviles@wilshirelawfirm.com

Harry Erganyan

harry.erganyan@wilshirelawfirm.com

Mariam Nazaretyan

mariam.nazaretyan@wilshirelawfirm.com

3055 Wilshire Blvd., 12th Floor

Los Angeles, CA 90010

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 29, 2024, at Encino, California.



Michelle Tanzer