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Attorneys for Plaintiffs, Emily Azlin and Deanna Buckner

(Additional Counsel on Next Page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MERCED

OTHELLA JONES, EMILY AZLIN,  
DEANNA BUCKNER, STEVEN  
MCLAUGHLIN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

APPLE INC., a California corporation; and  
DOES 1–50, inclusive,

Defendants.

) Case No.: 18-CV-04557

) *Assigned for all purposes to the Honorable*  
) *Brian McCabe*

) **DECLARATION OF REUBEN D.**  
) **NATHAN IN SUPPORT OF**  
) **PLAINTIFF'S MOTION FOR**  
) **APPROVAL OF SETTLEMENT AND**  
) **ENTRY OF JUDGMENT**

) Time: 8:15 p.m.  
) Ctrm: 8

**DECLARATION OF REUBEN D. NATHAN IN SUPPORT OF PLAINTIFF'S MOTION  
FOR APPROVAL OF SETTLEMENT AND ENTRY OF JUDGMENT**

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8 Attorneys for Plaintiffs, Emily Azlin and Deanna Buckner  
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1 I, REUBEN D. NATHAN, declare as follows:

2 1. I am over the age of eighteen years old and I am mentally competent to attest to the  
3 matters set forth in this declaration. I have specific knowledge of the information contained in this  
4 declaration and I attest the following statements are true and correct. I would testify to the matters  
5 stated herein if called upon as a witness to do so.

6 2. I am the principal attorney at the law firm of Nathan & Associates, APC ("RN"). I  
7 am co-counsel of record for Plaintiffs Deanna Buckner and Emily Azlin in the action entitled,  
8 *Jones v. Apple. Inc.*, et al, Case No. 18-CV-04557. The case originally included plaintiffs Othello  
9 Jones and Steve McLaughlin who are no longer plaintiffs in this action. I am submitting this  
10 Declaration in support of Plaintiff's Motion for Approval of Settlement and Entry of Judgment.

11 3. I am an attorney at law licensed to practice in the State of California and the District  
12 of Columbia, and I am a member of the bar of this Court. I have personal knowledge of the facts  
13 set forth in this declaration and, if called as a witness, I could and would testify competently  
14 thereto.

15 **THE CASE AND LITIGATION EFFORTS**

16 4. I have been prosecuting this case for more than 4 years. In preparing this fee  
17 application, I reviewed my firm's time records, files and emails. Based on my review of these  
18 records, I can attest that all of the time set forth was reasonably devoted to pursuing the class'  
19 interests and otherwise would have been billed to a fee-paying client.

20 5. Class counsel request a fee award as a percentage of the total fund. The hours  
21 expended are neither duplicative nor unreasonable. My hourly rate is \$900. I have practicing  
22 complex and class action litigation for more than 22 years. A very small portion of my firm's  
23 practice is devoted to defending clients, who pay my hourly rate. Under a strict lodestar, the fees  
24 my firm expended to date equal approximately **\$702,090.00**. My firm also expended costs in the  
25 amount of **\$31,962.53**. The requested rates are in line with the market rate (*see below*). I believe  
26 the requested fee of 40% of the Settlement Fund is appropriate in this case.

1           6.       Following investigation and discovery the parties sought the help of a mediator and  
2 selected the experienced third party mediator Ortman on April 13, 2023. The case did not resolve  
3 at the mediation with Ortman. On January 17, 2023, the Parties participated in mediation with  
4 Jeffrey A. Ross. The case resolved after a full day of mediation. For these reasons, I submit that  
5 the settlement that has been reached is a fair, reasonable and adequate resolution of the alleged  
6 claims, and I recommend that the Court enter an Order finally approving the settlement to  
7 effectuate payment to aggrieved employees.

8                           **MARKET RATES IN COMPARISON TO CLASS COUNSEL**

9           7.       Based on my knowledge and experience, the hourly rates charged by my firm are  
10 within the range of market rates charged by attorneys of equivalent experience, skill, and expertise.  
11 These are the same hourly rates that we actually charge to our hourly clients who have retained us  
12 for non-contingent matters, and which are actually paid by those clients. I have personal  
13 knowledge of the range of hourly rates typically charged by counsel in our field in California and  
14 I have weighted the market rates into account and have aligned my rate with that of the market.

15           8.       Non-contingent market rates charged by attorneys in California are as follows: (1)  
16 by the attorneys' fee applications of counsel of record; (2) by discussing fees with other attorneys;  
17 (3) by obtaining declarations regarding prevailing market rates filed by other attorneys seeking  
18 fees; and (4) by reviewing attorneys' fee applications and awards in other cases, as well as surveys  
19 and articles on attorney's fees in the legal newspapers and treatises. Comparable hourly rates  
20 include:

- 21           i.       *Williams v. H&R Block Enterprises, Inc.*, Alameda County Superior Ct. No.  
22                   RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a  
23                   wage and hour class action, in which the court found the hourly rates of \$785, \$775,  
24                   and \$750 reasonable for the more senior class counsel.
- 25           ii.       *Pierce v. County of Orange*, 905 F. Supp. 2d 1017 (C.D. Cal. 2012), a civil rights  
26                   class action brought by pre-trial detainees, in which the court approved a lodestar-  
27                   based, *inter alia*, on 2011 rates of \$850 and \$825 per hour.

iii. *Holloway et. al. v. Best Buy Co., Inc.*, No. 05-5056 PJH (N.D. Cal. 2011) (Order dated November 9, 2011), a class action alleging that Best Buy discriminated against female, African American and Latino employees by denying them promotions and lucrative sales positions, in which the court approved lodestar-based rates of up to \$825 per hour.

9. Surveys also justify my firm's hourly rate: Similarly, on February 25, 2011, the Wall Street Journal published an on-line article entitled "Top Billers." That article listed the 2010 and/or 2009 hourly rates for more than 125 attorneys, in a variety of practice areas and cases, who charged \$1,000 per hour or more. Indeed, the article specifically lists *eleven* (11) Gibson Dunn & Crutcher attorneys billing at \$1,000 per hour or more.

10. The Westlaw CourtExpress Legal Billing Reports for May, August, and December 2009 show that as far back as 2009, attorneys with as little as 19 years of experience were charging \$800 per hour or more, and that the rates requested here are well within the range of those reported. Again, current rates are significantly higher.

### REASONABLE HOURLY RATES

11. The fee request sought herein is reasonable in light of the contingent nature or the fee, the amount of work performed, the quality of work performed, and most importantly the results/benefits to the aggrieved employees.

12. Fee awards are almost always determined based on current rates, such as the attorney's rate at the time a motion for fees is made rather than the historical rate at the time the work was performed.

13. This Court can appreciate that litigating a high-stakes cases against defendant with deep pockets, represented by a top-notch law firm, dealing with issues that are unsettled is not appealing to most lawyers. Even more challenging is the heightened risk as a result of having to finance that type of litigation, which was not undertaken lightly.

14. 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

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1 litigation. As a practical matter, few if any consumers or employees pay attorney's fees on an  
2 hourly basis for such litigation. Thus, in such cases attorneys base their retainer agreements on a  
3 contingency fee relationship.

4 15. This class action case involves California's wage and hour laws. Litigating a wage  
5 and hour PAGA action through trial can take years and frequently requires the investment of  
6 hundreds of thousands of dollars in costs. This is a very difficult area of law and not within the  
7 knowledge of many lawyers as it requires knowledge of the substantive law, representative action  
8 procedure and enforcement positions of state and federal agencies. This case involved a novel  
9 issue relating to the reimbursement for home office expenses. Representative action work of this  
10 type requires specialized learning and the willingness to take large risks. Plaintiffs' counsel used  
11 a high level of skill in the difficult questions that arose in this case.

12 16. Representative action cases unlike many others can only properly be litigated one  
13 at a time, which required me to forego accepting other cases during the time of this litigation. The  
14 requirements of this were significant.

15 17. There is no question that my firm was precluded from taking other cases, and in  
16 fact, had to turn away other meritorious fee-generating cases in order to meet the demands of this  
17 case.

18 18. We were paid nothing along the way and had to pay expenses for costs. I believe a  
19 fee request of 40% with a reasonable lodestar and multiplier is reasonable in this case given  
20 complexity, benefit to the aggrieved employees and LWDA, and Plaintiffs' counsel's efforts.

21 19. My hourly rate of \$900.00 is supported by other courts issuing my firm similar fee  
22 awards. I have been named a Super Lawyer from 2014-2022 and won such awards as Class Action  
23 Attorney of the Year. I have represented and continue to represent plaintiffs in various types of  
24 class action cases.

25 20. I have served as lead class counsel in several cases, including some of the  
26 following, which are set forth below:

- 1 a. *Reid v. Diedrich Coffee, Inc., et al.*, U.S. District Court, Central District  
2 of California, Case No. SACV06-888 AG (MLGx);
- 3 b. *Scerca v. Town & Country, et al.*, U.S. District Court, Central District of  
4 California, Case No. SACV06-889 AG (MLGx);
- 5 c. *Hilliard v. Ameriquest, et al. and Torok v. Ameriquest, et al.*, U.S.  
6 District Court Central District of California, Case No. SACV06-892 JVS  
7 (ANx);
- 8 d. *Strich v. Solstice Capital, et al.*, U.S. District Court Central District of  
9 California, Case No. CV05-8757 SGL (RNBx);
- 10 e. *The Parking Concepts Wage & Hour Cases*, Los Angeles County Superior  
11 Court, Case No. JCCP 4531;
- 12 f. *Griffin et al. v 725 Baker LLC, Orange County County Superior Court*,  
13 Case No. 30-2010-00397655-CU-OE-CXC;
- 14 g. *Leon v. Allied Exhaust Systems*, Los Angeles Superior Court,  
15 Case No.: BC438653;
- 16 h. *De Los Santos v. Lala's Argentine Grill*, Los Angeles Superior Court,  
17 Case No. BC472215;
- 18 i. *Duarte v. Heroes Restaurants, Inc.*, Orange County Superior Court,  
19 Case No.: 30-2012-00581304;
- 20 j. *Lopez v. My World Enterprises, Inc.*, Los Angeles Superior Court,  
21 Case No. BC506687;
- 22 k. *Taylor v. Loandepot.com, llc.*, Orange County Superior Court,  
23 Case No. 30-2013-00648925;
- 24 l. *Soto v. Wild Planet, Inc.*, Northern District of California,  
25 Case No. 5:15-cv-05082, resulting in a settlement on behalf of class  
26 members;
- 27 m. *Tran v. Paramount Mortgage, LLC*, Orange County Superior Court,  
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Case No. 30-00827323 resulting in a settlement on behalf of class members;

n. *Morris v. SolarCity Corporation*, Northern District of California, Case No. 5:15-cv-005107, resulting in a \$15,000,000.00 settlement on behalf of class members;

o. *Santoli v. The Money Source, Inc., et al.*, Orange County Superior Court, Case No. 30-2017-00917450 resulting in a \$1,500,000.00 settlement on behalf of class members;

p. *Lavelle v. Nationstar Mortgage, et al.*, Orange County Superior Court, Case No. 30-2017-00917438 resulting in a \$10,050,000.00 settlement on behalf of class members;

q. *Arnold v. Guaranteed Rate Inc., et al.*, Ventura County Superior Court, Case No. 56-2019-00523081-CU-OE-VTA.

r. *Sicairos v. Staffmark Investment, LLC, et al.*, Orange County Superior Court, Case No. 30-2019-01050988, PAGA only action, resulting in a \$1,500,000 settlement on behalf of aggrieved employees, resulting in \$350 per pay period and approximately \$2,000 per aggrieved employee;

s. *Louka v. Nations Direct Mortgage, et al.*, Orange County Superior Court, Case No. 30-2019-01042277-CU-OE-CXC;

t. *Arevalos v. Americor Funding, Inc., et al.*, Orange County Superior Court, Case No. 30-2019-01068606-CU-OE-CX; and

u. *Nelson v. Bridgestone Retail Operations, LLC, et al.* San Diego Superior Court, Case No. 37-2020-00035994-CU-OE-CTL, coordinated with *Bridgestone Retail Wage and Hour Cases*, JCCP Action, San Bernardino Superior Court, Case No. JCCP 5054, consolidated with *Strawn v. Bridgestone Retail Operations, LLC, et al.*, Sacramento Superior Court, Case No. 34-2018-00242049

1           21.    My firm's fee application, in any case, before any court of law, has never been  
2 reduced.

3           22.    My firm undertook this representation on a contingent basis recognizing that the  
4 risk of non-payment has been high throughout this litigation. I recognized that there were  
5 substantial uncertainties in the viability of this case as a class action. A realistic assessment shows  
6 that the risks in the resolution of the liability issues, protracted litigation in this action as well as  
7 the probable appeals process, are great.

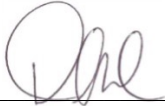
8           23.    If this case had not resolved through settlement, I would have vigorously prosecuted  
9 the case through class certification, summary judgment, trial, and appeal. My firm was therefore  
10 at great risk for non-payment.

11           24.    Based on our lodestar, my hourly rate is \$900.00. I was the only attorney from my  
12 firm that worked on this case. The hours worked by my firm in covering eight categories are  
13 outlined in my firm's Time Report attached hereto as "Exhibit 1." I expended a total of 780.10  
14 hours prosecuting this action, totaling **\$702,090.00**. My firm expended a total of **\$31,962.53** in  
15 costs, prosecuting this action. My firm's itemized costs are attached hereto as "Exhibit 2."

16           25.    Under Ninth Circuit standards, a District Court may award attorneys' fees under  
17 either the "percentage-of-the-benefit" method or the "lodestar" method. *Fischel v. Equitable Life*  
18 *Assur. Soc'y*, 307 F.3d 997, 1006 (9th Cir. 2002); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029  
19 (9th Cir. 1998). Class Counsel's fee request is fair and reasonable under either of these methods.

20           I declare under penalty of perjury under the laws of the state of California that the  
21 foregoing is true and correct.

22           Executed on April 19, 2023 in Newport Beach, California.

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25 Reuben D. Nathan

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# EXHIBIT 1

*JONES et. al., v. Apple*  
TIME REPORT

**Firm Name:** Nathan & Associates, APC

**Categories:**

|                       |                                                   |
|-----------------------|---------------------------------------------------|
| <b>(P) Partner</b>    | <b>(1) Investigations, Factual Research</b>       |
| <b>(A) Associate</b>  | <b>(2) Discovery</b>                              |
| <b>(LC) Law Clerk</b> | <b>(3) Pleadings, Briefs and Pretrial Motions</b> |
|                       | <b>(4) Court Appearances</b>                      |

- (5) Mediation Settlement and Administration
- (6) Litigation Strategy, Analysis and Case Management
- (7) Class Certification
- (8) Trial Preparation and Trial

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# EXHIBIT 2

Jones v. Apple, et al.  
Case No: 18CV-04557

**NATHAN & ASSOCIATES, APC - COSTS**

TOTAL:

**\$31,962.53**

| ITEM:                                                                        | Cost       | ATTORNEY: | CASE: |
|------------------------------------------------------------------------------|------------|-----------|-------|
| Attorney Service Fees                                                        | \$548.35   | RDN       | APPLE |
| Expert Fees                                                                  | \$6,996.25 | RDN       | APPLE |
| Mediation Fees (Jeffrey Ross)                                                | \$4,166.70 | RDN       | APPLE |
| Mediation Fees (Ortman Mediation, Inc.)                                      | \$3,333.33 | RDN       | APPLE |
| Air Travel (Mediation)                                                       | \$466.20   | RDN       | APPLE |
| Taxi/Uber                                                                    | \$182.74   | RDN       | APPLE |
| Deposition Fees                                                              | \$7,794.90 | RDN       | APPLE |
| Case Management and Data Prep Service                                        | \$4,250.50 | RDN       | APPLE |
| Courtcall Service Fees                                                       | \$94.00    | RDN       | APPLE |
| One Legal Fees (Includes Court Technology Fees, Filing Fees, E-Service Fees) | \$1,424.70 | RDN       | APPLE |
| Paper Fees (Prints/Photocopies)                                              | \$2,475.00 | RDN       | APPLE |
| Supplies                                                                     | \$125.40   | RDN       | APPLE |
| Postage                                                                      | \$104.46   | RDN       | APPLE |