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Attorneys for Plaintiffs
Emily Azlin, and Deanna Buckner

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

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

Plaintiffs,

v.

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

Defendants.

CASE NO.: 18CV-04557

**DECLARATION OF JOHN GLUGOSKI
IN SUPPORT OF PLAINTIFFS'
MOTION FOR APPROVAL OF PAGA
SETTLEMENT AND ENTRY OF
JUDGMENT**

Hearing Date: June 5, 2023
Time: 8:15 a.m.
Judge: Hon. Brian L. McCabe
Location: Courtroom 8

1 I, **JOHN GLUGOSKI**, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the State of California with Righetti
3 Glugoski, P.C. (Formerly Righetti Law Firm P.C.), attorneys of record for Plaintiffs. I have
4 personal knowledge of the following facts and if called as a witness would testify as follows:

5 **EDUCATION AND EXPERIENCE**

6 2. I am an attorney duly licensed to practice law in the State of California and I
7 represent the Plaintiffs herein. I have personal knowledge of the matters set forth herein, and
8 would and could testify thereto if called as a witness herein. I graduated from the University of
9 California at Berkeley in 1993 with a degree in Political Science. I then graduated from the
10 University of San Francisco, School of Law in 1997. I am admitted to practice law before the
11 following courts: United States Court of Appeals, Ninth Circuit, United States Court of Appeals,
12 Federal Circuit, United States District Court, Northern, Central, Eastern, and Southern Districts
13 of California, and all of California's state courts.

14 3. I have been practicing law full time for over twenty-seven (26) years. My practice
15 has been devoted to complex class, collective and representative action litigation. Much of this
16 litigation has involved class action, and representative action prosecution of wage and hour laws
17 (state and federal), state and federal privacy laws (FCRA and CCCRA) and consumer laws. My
18 practice involves litigation in both state and federal courts. A sampling of some of the more
19 significant cases (including wage and hour litigation) handled by Righetti Law Firm, P.C.,
20 includes: *Rocher v. Sav-On Drug Stores* (Hon. Victoria G. Chaney, Los Angeles County Superior
21 Court), co-lead counsel in a certified overtime class action [in a seminal decision, the California
22 Supreme Court unanimously overturned the Court of Appeal's decision to reverse certification
23 (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319); *Gentry v. Circuit City Stores,*
24 *Inc.* (Hon Tricia Ann Bigelow, Los Angeles County Superior Court), plaintiff's counsel in an
25 overtime class action where the court of appeal's decision affirming the trial court's order to
26 enforce an employment agreement barring class actions was reversed by the California Supreme
27 Court in *Gentry v. Superior Court* (2007) 42 Cal.4th 443; *Cooper et al. v. Chief Auto Parts* (Hon.

1 Ken Kawaichi, Alameda County Superior Court), a multi-party (over 200 included plaintiffs)
2 overtime case that proceeded through a merits arbitration; *Winfrey v. Chief Auto Parts* (Hon.
3 David Garcia, San Francisco Superior Court), a certified wage and hour class action where the
4 trial court's order to deny certification was reversed by the First DCA in an unpublished opinion.
5 *Crab Addison v. Superior Court*, (LASC Case No. BC377269) plaintiff's counsel in a wage and
6 hour case styled as a class action where 2nd DCA affirmed trial court's order granting plaintiffs
7 access to names and contact information of putative class members without first sending a
8 "privacy letter" (regarded as a landmark published decision affirming the trial court's
9 order). *Crab Addison v. Superior Court* (2008) 169 Cal.App.4th 958 (rehearing denied January
10 23, 2009; petition for review denied March 18, 2009); and *Rutti v. Lojack Corporation, Inc.*
11 (USDC, Central District, Case No. SA CV06-0350-DOC (RNBx, Judge Carter) plaintiffs' counsel
12 in a wage and hour class action. District court's order granting Defendant's motion for summary
13 judgment *reversed* when the 9th Circuit granted plaintiffs' Petition for Rehearing. See, *Rutti v.*
14 *Lojack Corporation, Inc.* 596 F.3d 1046 (2010) [setting the parameters of both the "de minimus"
15 doctrine and workers' right to wages under California law where employer exercises control over
16 workers]; *Home Depot and 99 Cent Only Stores* where the trial courts limited the California
17 Private Attorney General Act (PAGA) only to claims under the Labor Code and not to claims
18 under the IWC Wage Orders. In both cases the Courts of Appeal reversed in published decisions.
19 See *Home Depot v. Superior Court* (2011) 191 Cal.App.4th 210 (review denied March 16, 2011)
20 (holding PAGA applicable to seating claims on grounds that Labor Code §1198 incorporates IWC
21 Wage Order protections); *Bright v. 99 Cents Only Stores* (2010) 189 Cal.App.4th 1472 (review
22 denied February 16, 2011) (same); PAGA action against Bank of America on behalf of California
23 bank tellers. The case was twice dismissed by Judge Real. Judge Real's orders were both reversed
24 by the Ninth Circuit – *Green v. Bank of America, N.A.* (9th Cir. 2013) __ Fed. Appx., 2013 WL
25 _____ and *Green v. Bank of America, N.A.* (9th Cir. 2015) 634 Fed.Appx. 188. On remand the
26 Ninth Circuit removed the case from the docket of Judge Real and re-assigned the case to Judge
27 Percy Anderson.
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1 4. There are many cases where Righetti Law Firm, P.C. (now Righetti Glugoski, P.C.)
2 has acted as class and representative action counsel in certified class actions and PAGA actions
3 in state and federal courts and on appeal.

4 5. We acted as trial counsel in what we believe are the only four class action overtime
5 cases ever to have been tried under the quantitative executive exemption standard articulated in
6 *Ramirez v. Yosemite Water Company* (1999) 20 Cal.4th 785. The first case was tried in Los
7 Angeles County Superior Court before the Hon. J. Stephen Czulager, resulting in a phase one
8 finding that U-Haul had misclassified all California salaried “General Managers” as exempt from
9 overtime. The case settled before the phase two remedy trial convened. The second case was
10 tried in San Diego County Superior Court before the Honorable Patricia Cowett, resulting in a
11 phase one finding that Aiko *Party City* had misclassified salaried employees as exempt from
12 overtime (the phase two damages trial was completed as well). In the third case, we are co-lead
13 counsel in the *Sav-on* overtime litigation that completed the first phase of trial before the
14 Honorable Victoria G. Chaney in Los Angeles County Superior Court (complex). In the fourth
15 trial we were class counsel in a certified class action against Taco Bell alleging that its restaurant
16 general managers were misclassified as exempt under California law. The case was tried in the
17 San Diego County Superior Court before the Hon. Kevin Enright and settled after four weeks of
18 trial.

19 6. Righetti Glugoski, P.C. also represents various amicus groups on occasion in court
20 of appeal proceedings. We have handled appeals throughout California and in the federal courts
21 of the Ninth Circuit, the Seventh Circuit and the Federal Circuit.

22 7. While I am admittedly self-interested in this case – and I present this declaration
23 as an advocate not an expert – the fact is that the fees being sought here are reasonable in light
24 of the contingent nature of the fee, the amount of work performed and the quality of work performed.

25 8. I have become familiar with the non-contingent market rates charged by attorneys
26 in California. I have obtained this familiarity in several ways, including: (1) Researching fee rates;
27 (2) Handling attorneys' fee litigation; (3) Discussing fees with other attorneys; (4) Reviewing
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1 declarations regarding prevailing market rates in cases seeking fees; (5) Reviewing attorneys' fee
2 applications and court awards in other cases, as well as (6) Reviewing surveys and articles in legal
3 newspapers and treatises on attorney's fees.

4 9. Here our lodestar is greater than the amount of fees being requested.

5 10. In my experience fee awards are almost always determined based on current rates,
6 such as the attorney's rate at the time a motion for fees is made rather than the historical rate at the
7 time the work was performed.

8 11. This Court can appreciate that litigating a high-stakes case against a moneyed
9 defendant, represented by a top-notch law firm, in an unsettled area of law is not appealing to most
10 lawyers. Heightening the risk is the fact that the plaintiff's lawyer will have to finance the
11 litigation. It is not a cause undertaken lightly. This case was hard fought with extensive and
12 expensive discovery taking place.

13 12. One difficulty in determining the hourly rate of attorneys of similar skill and
14 experience in the relevant community is the scarcity of hourly fee-paying clients in class,
15 collective and/or representative action litigation. As a practical matter, few if any consumers or
16 employees pay attorney's fees on an hourly basis for such extensive litigation. Thus, in such cases
17 attorneys base their retainer agreements on a contingency fee relationship.

18 13. The work in this case involved a PAGA representative action and California's wage
19 and hour laws. Litigating a wage and hour representative action through trial can take years and
20 frequently requires the investment of hundreds of thousands of dollars in costs. This is a very
21 difficult area of law and not within the knowledge of many lawyers as it requires a knowledge of
22 the substantive law, PAGA representative actions procedure, enforcement positions of state and
23 federal agencies and arbitration law. Work of this type requires specialized learning and the
24 willingness to take large risks. Plaintiffs' counsel used a high level of skill in the difficult questions
25 that arose in this case. Working with Reuben Nathan, John Glugoski and Bryce Dodds, we
26 attempted to efficiently litigate the claims in this matter using a high level of skill in the difficult
27 questions that arose in this case. Even with four attorneys working on this case we were
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1 outnumbered by defense counsel at every stage.

2 14. A practice like ours can only properly litigate so many cases at one time. The
3 requirements of this were significant. There is no question that we were precluded from taking
4 other cases, and in fact, had to turn away other meritorious fee generating cases in order to meet
5 the demands of this case.

6 15. Plaintiffs' counsel was paid nothing along the way and had to pay considerable
7 expenses for costs.

8 16. In preparing this fee application, I reviewed the firm's time records, files and
9 emails. Based on my review of these records, I can attest that all of the time set forth was reasonably
10 devoted to pursuing the interests of the LWDA and Aggrieved Employees and otherwise would
11 have been billed to a fee-paying client.

12 17. Concerning the time I spend on the case, I spent 479.30 hours on this case. I am
13 knowledgeable about the hourly rates charged by attorneys of varying degrees of experience. In
14 the course of my fees practice, I have reviewed the hourly rates of dozens of law firms in California
15 and elsewhere. I am also familiar with the hourly rates awarded in many other fees cases by state
16 and federal courts in California and throughout the country. In addition, I have reviewed many
17 published surveys of attorneys' billing rates. For example, *four years ago* the rates charged by
18 attorneys at Sidley Austin (a large defense firm similar to CFD) for class/representative action
19 litigation was between \$925-\$1000 for partners and \$905-\$540 for associates. Attached to the
20 Decl. of M. Righetti (Exhibit 3) is a true and correct copy of the 2018 Sidley Austin hourly fee/rate
21 sheet showing Southern California rates.

22 18. We did not receive any compensation for our services during the prosecution of
23 this matter. In addition, Righetti Glugoski, P.C. incurred \$49,500.54 in out-of-pocket expenses (as
24 detailed below) to achieve the settlement. The Nathan and Dodds firms incurred additional out of
25 pocket costs as set forth in the Declaration of Reuben Nathan and Bryce Dodds.

26 19. My current hourly rate is \$850.00. My rate is on par with the 2018 rates charged
27 by attorneys with similar experience and qualifications who represent commercial and other full-
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1 rate clients on an hourly basis. See, e.g., the 2018 Sidley Austin rate sheet referenced above.

2 20. The hourly rates charged by Righetti Glugoski, P.C. are supported by our
3 specialized experience. I believe the rates set forth in the fee application are fully consistent with
4 the market rate for attorneys with comparable expertise, experience and qualifications.

5 21. In the course of my practice, I have reviewed the hourly rates of dozens of law
6 firms in California and elsewhere. The rates in this fee application are consistent with the market
7 rates for comparably qualified and experienced counsel handling similar civil litigation.

8 22. In preparing this fee application, I reviewed the firm's time records, files and
9 emails. Based on my review of these records, I can attest that all of the time set forth was reasonably
10 devoted to pursuing the Plaintiffs' interests and otherwise would have been billed to a fee-paying
11 client. To calculate the lodestar for the time spent on this case, I personally reviewed and
12 summarized the billing records incurred in prosecuting the matter. I eliminated time entries that
13 could be considered duplicative or inefficient. As of the filing of this motion, I have spent 479.30
14 hours in the prosecution of this lawsuit which was necessary to achieve a successful outcome. My
15 lodestar as of the filing of this motion is \$407,405. The lodestar of the Righetti Glugoski paralegal
16 is \$27,517.50. I have submitted time summaries setting forth in detail the categories of work
17 performed and the amount of time spent on each of the various categories to support the number
18 of hours expended. The categories are:

- 19 (1) Investigations, Factual Research
20 (2) Discovery
21 (3) Pleadings, Briefs and Pretrial Motions (includes legal research)
22 (4) Court Appearances
23 (5) Mediation Settlement and Administration
24 (6) Litigation Strategy, Analysis and Case Management
25 (7) Class Certification
26 (8) Trial Preparation and Trial
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1 Marked and attached hereto as Exhibit 1 is a true and correct copy of the non-duplicative time I
2 spent on the categories listed above.

3 23. The amount of time spent on this case is reasonable given the complexity and
4 novelty of the issues involved, the vigorous defense provided by the Littler and CDF firms, the
5 length and intensity of the litigation, and the results obtained. Since its inception, Plaintiffs faced
6 a phalanx of defenses as outlined in Defendant's Answer. Counsel litigated this action with skill
7 and efficiency reflecting the amount of work required to achieve the settlement. Once the
8 settlement was consummated our work has not stopped. We expect to work closely with the court
9 appointed notice administrator to assure that notice is provided consistent with this Court's orders
10 and due process. We intend to promptly respond to all inquiries and we intend to continue our
11 work until all responsibilities are discharged and all funds are dispersed.

12 24. I have reviewed the time and cost summaries submitted to the Court in the
13 declarations of Mr. Nathan, Mr. Righetti and Mr. Dodds. I attest to the amount of work performed
14 by these lawyers and their firms as well as the high quality of work and professional standards for
15 both the lawyers and their firms. The work they performed was necessary to achieved a successful
16 outcome and was not duplicative of the work performed by the Righetti Glugoski firm.

17 I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th
18 day of May, 2023, at San Francisco, California.

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20 
21 John Glugoski
22 Attorneys for Plaintiffs
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EXHIBIT 1

TIME REPORT

Firm Name: Righetti Glugoski, PC

Categories:

- ## (8) Trial Preparation and Trial

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