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Attorneys for Plaintiffs,
KEVIN TOBIN and ROSA FALDON, on behalf of the general public as private attorney general.

[Additional counsel on next page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER**

KEVIN TOBIN and ROSA FALDON,
on behalf of the general public as private
attorney general,

Plaintiffs,

v.

ADVENTIST HEALTH SYSTEM/WEST,
a California Corporation; and DOES 1-50,
inclusive,
Defendants.

Case No. S-CV-0049484

Assigned for All Purposes to Hon. Trisha
Hirashima, Dept. 40

**DECLARATION OF JAMES HAWKINS
IN SUPPORT OF STIPULATION
APPROVING SETTLEMENT OF
PRIVATE ATTORNEYS GENERAL ACT
CLAIMS**

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KEVIN TOBIN and ROSA FALDON, on behalf of the general public as private attorney general.

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DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiffs Kevin Tobin and who along with Plaintiff Rosa Faldon, (hereinafter collectively referred to as “Plaintiffs”) moves this Court for entry of an order and judgment approving the Parties’ PAGA settlement pursuant to Labor Code section 2699(l)(2). I submit this declaration in support of the Joint Stipulation Approving Settlement of Private Attorneys General Act Claims filed concurrently herewith. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

BRIEF PROCEDURAL HISTORY

2. On September 1, 2022, Plaintiff Kevin Tobin (“Plaintiff Tobin”) sent a PAGA Notice to the Labor Workforce and Development Agency (“LWDA”) and Defendant Adventist Health System/West (“Defendant”), providing notice of various provisions of the Labor Code that Defendant allegedly violated, including the facts and theories to support the alleged violations. Specifically, Plaintiff Tobin alleged claims related to failure to pay wages including minimum wages and overtime, failure to provide rest periods, failure to timely pay wages at separation, failure to provide accurate wage statements, and failure to indemnify necessary business expenses.

3. On October 28, 2022, Plaintiff Rosa Faldon (“Plaintiff Faldon”) sent a PAGA Notice to the LWDA and Defendant, providing notice of various provisions of the Labor Code that Defendant allegedly violated, including the facts and theories to support the alleged violations. Specifically, Plaintiff Faldon alleged claims related to the failure to provide meal and rest breaks, and failure to pay premium wages for missed meal and rest breaks; the failure to properly pay all minimum and overtime wages due; the failure to maintain accurate records; the failure to issue accurate, itemized wage statements; the failure to timely pay wages during employment; the failure to provide a safe and healthful workplace; and the failure to reimburse for business expenses.

4. The LWDA did not inform Plaintiffs of any intent to investigate the noticed claims

1 within the sixty-five (65) day statutory deadline and, to this day, has not communicated any intent
2 to investigate the claims. Thus, Plaintiffs became authorized under Labor Code section 2698, *et*
3 *seq.* to act as private attorneys general for the alleged PAGA claims.

4 5. On November 16, 2022, Plaintiff Tobin filed a representative action entitled *Kevin*
5 *Tobin, on behalf of the general public as private attorney general v. Adventist Health*
6 *System/West, et al.* in Placer County Superior Court, alleging PAGA violations as set forth in
7 Plaintiff's Complaint pursuant to Labor Code § 2698, *et seq.* ("PAGA") for alleged violations of
8 the Labor Code (the "Tobin PAGA Action").

9 6. On March 6, 2023, Plaintiff Faldon filed a representative action entitled *Rosa*
10 *Faldon, on behalf of herself and all others similarly situated, and on behalf of the general public*
11 *v. Adventist Health System/West, et al.* in Kings County Superior Court, alleging PAGA violations
12 as set forth in Plaintiff's Complaint pursuant to Labor Code § 2698, *et seq.* ("PAGA") for alleged
13 violations of the Labor Code (the "Faldon PAGA Action").

14 7. On June 27, 2023, Plaintiff Tobin filed a First Amended Complaint to informally
15 consolidate the Tobin PAGA Action and Faldon PAGA Action (the "Operative Complaint").

16 8. The Operative Complaint alleges violations of the PAGA for Defendant's failure to
17 pay all minimum and overtime wages, failure to provide meal periods, failure to make meal period
18 premium payments, failure to authorize and permit rest periods, failure to make rest period
19 premium payments, failure to pay all wages earned and owed upon separation from Defendant's
20 employ, failure to pay wages timely during employment, failure to provide accurate itemized wage
21 statements, failure to maintain accurate records, failure to maintain a safe and healthful workplace,
22 and failure to reimburse necessary business expenses. The Operative Complaint specifically
23 alleges that Defendant violated California Labor Code sections 201, 202, 203, 204, 210, 218,
24 218.5, 222, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1,
25 1198, 2802, 6400, 6401, 6402, 6403, 6404, and 6407, as well as the corresponding sections of any
26 applicable Wage Order including without limitation IWC Wage Order 5.

1 **MEDIATION EFFORTS**

2 9. On June 5, 2024, the Parties participated in a full-day mediation with mediator Lisa
3 Klerman, an experienced and highly respected employment law mediator. With Ms. Klerman's
4 guidance, the Parties negotiated a complete settlement of the claims in this action on an individual
5 and representative basis.

6 **INVESTIGATION OF CLAIMS**

7 10. Plaintiffs' Counsel conducted a thorough investigation into the factual and legal
8 issues implicated by Plaintiffs' claims, and were able to objectively assess the settlement's
9 reasonableness. For example, prior to filing the action, Plaintiffs contacted Plaintiffs' Counsel to
10 discuss the factual bases for pursuing their actions against Defendant for Labor Code violations.

11 11. Plaintiffs were intimately familiar with Defendant's labor policies and practices,
12 and over the course of multiple interviews, knowledgeably summarized those policies and
13 practices to Plaintiffs' Counsel. During those conversations, Plaintiffs' Counsel explained how the
14 policies and practices were instituted and provided valuable insight into how they gave rise to the
15 alleged Labor Code violations. Based on these interviews with Plaintiffs, Plaintiffs' Counsel
16 determined that there were legally sufficient grounds for pursuing the Actions against Defendant.
17 And in preparation for drafting the complaints, Plaintiffs' Counsel conducted their own
18 independent preliminary investigations into the factual bases for Plaintiffs' claims, which entailed,
19 *inter alia*, a careful examination of Plaintiffs' personnel files and associated records.

20 12. Plaintiffs' Counsel received a considerable amount of documents and data,
21 including employee demographic data, time and pay records, and Defendant's policies and
22 procedures manuals which covered a broad range of topics including, *inter alia*, employee clock-
23 in policies and procedures, attendance policies, meal periods/rest periods, pay policies, etc., and
24 sampled time and pay records for the Aggrieved Employees with thousands of lines of electronic
25 data. The document and data exchanges allowed Plaintiffs' Counsel along with their expert to
26 fully assess the nature and magnitude of the claims being settled, as well as the impediments to
27 recovery, and ultimately enabled Plaintiffs' Counsel so as to make an independent assessment of
28 the reasonableness of the settlement's terms.

1 13. In summary, Plaintiffs' Counsel performed a thorough investigation into the claims
2 at issue, which included: (1) determining Plaintiffs' suitability as private attorneys general
3 through interviews, background investigations, and analyses of their employment files and related
4 records; (2) evaluating all of Plaintiffs' potential representative claims; (3) researching similar
5 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
6 employer; (4) analyzing employees' time and wage records; (5) reviewing Defendant's
7 employment policies and practices; (6) researching settlements in similar cases; (7) evaluating
8 Plaintiffs' claims and estimating Defendant's liability for purposes of settlement; (8) drafting the
9 mediation brief; and (9) participating in the mediation.

10 14. By engaging in such a thorough investigation and evaluation of Plaintiffs' claims,
11 Plaintiffs' Counsel can opine that the Settlement, for the consideration and on the terms set forth
12 in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of the
13 Aggrieved Employees in light of all known facts and circumstances, including the risk of
14 significant delay and uncertainty associated with litigation, and various defenses asserted by
15 Defendant.

16 15. Plaintiffs' counsel balanced the terms of the proposed Settlement against the risk of
17 litigation and probable outcome at trial. Based on their own respective independent investigations
18 and evaluations, and after taking into account the sharply disputed factual and legal issues
19 involved in this matter, the risks attending further prosecution of the case, and the monetary
20 benefits received under the Settlement despite the questionable nature of the claims, Plaintiffs'
21 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the
22 Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiffs and
23 the Aggrieved Employees. Counsel for the Parties investigated the applicable law as applied to
24 the facts discovered regarding the claims of Plaintiffs, Defendant's defenses thereto and the
25 damages claimed by Plaintiffs on behalf of the settling Aggrieved Employees.

26 16. I believe that the consideration and terms set forth in the Settlement Agreement are
27 fair, reasonable, and adequate and are in the best interests of the LWDA and Aggrieved
28 Employees in light of all known facts and circumstances, including the various defenses asserted

1 by Defendants, and numerous potential appellate issues. In addition, the prospect of a potential
2 adverse summary judgment ruling, the difficulties of complex litigation, the lengthy process of
3 establishing specific damages and various possible delays and appeals, were also carefully
4 considered in agreeing to the proposed Settlement.

5 **PLAINTIFFS' COUNSEL'S EXPERIENCE**

6 17. I have a great deal of experience in wage and hour class action litigation. I have
7 obtained certification of several classes, I have been approved as class counsel in many other
8 wage/hour class actions, and I am currently litigating numerous others. Although not an all-
9 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
10 lead counsel, all of which implicated similar law and facts to those associated with this action:

11 a. *Wackenhut Wage and Hour Cases*, LASC Case No. JCCP 4545, certified Wage and
12 Hour Class action seeking damages and penalties for violations of accurate itemized
13 wage statement, meal periods, rest periods, and derivative claims in the State of
14 California. Certification granted. Case settled for \$130,000,000, Final Approval
15 granted, no objections and funds fully distributed. Plaintiffs' counsel co-lead counsel.

16 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case
17 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
18 classification of insurance claims adjusters employed by Gallagher Bassett, a third
19 party administrator (TPA) in the State of California. Certification granted. Plaintiffs'
20 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds
21 fully distributed.

22 c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-
23 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
24 overtime and meal and rest break violations for production workers in the State of
25 California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final
26 Approval granted, no objections and funds fully distributed.

27 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
28 Wage and Hour Class Action case seeking past wages for meal and rest period

1 violations for retail employees in the State of California. Plaintiffs' counsel appointed
2 co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
3 distributed.

4 e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.
5 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and
6 rest period violations for retail employees in the State of California. Plaintiffs'
7 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
8 objections and funds fully distributed.

9 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County
10 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past
11 wages for overtime, meal and rest break violations for driver employees in the State of
12 California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class.
13 Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel and class counsel.

14 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
15 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for
16 overtime, meal and rest breaks violations for production employees in the State of
17 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval
18 granted, no objections and funds fully distributed.

19 h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County
20 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
21 wages for overtime, meal and rest break violations for production employees in the
22 State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled,
23 Final Approval granted, no objections and funds fully distributed.

24 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
25 Wage and Hour Class Action seeking past wages for unlawful deductions, meal and
26 rest break violations for restaurant employees in the State of California. Plaintiffs'
27 counsel appointed as lead counsel. Case settled, Final Approval granted and funds
28 fully distributed.

1 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case
2 No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal
3 and rest break violations for security officers in the State of California. Plaintiffs'
4 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
5 objections and funds fully distributed.

6 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
7 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
8 seeking past wages for meal and rest break violations for security officers employed by
9 defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled,
10 Final Approval granted and funds fully distributed.

11 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
12 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
13 meal and rest break violations for housekeepers employed by defendant in the State of
14 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval
15 granted, no objections and funds fully distributed.

16 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
17 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
18 rest period violations for non-exempt employees employed by defendant in the state of
19 California. Case settled. Awaiting Preliminary Approval hearing. Case settled, Final
20 Approval granted, no objections and funds fully distributed.

21 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
22 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
23 for field and branch employees of defendant in the State of California. Plaintiffs'
24 counsel appointed as lead counsel. Case settled, Final Approval granted, no objections
25 and funds fully distributed.

26 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
27 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
28 employees of defendant in the State of California. Plaintiffs' counsel appointed as lead

counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for misclassification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.

1 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
2 classification of managers employed by Defendant in the State of California.
3 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
4 objections and funds fully distributed.
5 v. *Davila, et al. v. Beckman Coulter, Inc., et al.*, Orange County Superior Court, Case
6 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
7 and rest break violations for production workers employed by defendant in the State of
8 California. Plaintiffs' counsel appointed lead counsel. Case settled; final approval
9 granted; no objections and funds fully distributed.
10 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
11 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
12 meal and rest period violations for production employees employed by defendant in the
13 State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
14 Approval granted, no objections and funds fully distributed.

15 18. Our firm served as class counsel in a number of significant wage and hour
16 settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest
17 wage and hour class action settlement in California history at \$130,000,000. During this case,
18 Plaintiffs appealed a decertification order. This case involved several appeals. The appellate
19 record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-
20 volume reporters transcript, five briefs, four letter briefs, two motions for judicial notice, a motion
21 to augment the record, and several additional letters informing the appellate court of new legal
22 authority issued after *Dukes*. The matter was argued to and submitted by the Court of Appeal on
23 September 15, 2016, and on November 21, 2016, the decertification order was reversed and the
24 case was remanded for further proceedings. (*Lubin v. The Wackenhut Corporation* ("Lubin"), 5
25 Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of the Court of Appeal decision
26 to the California Supreme Court. The Supreme Court denied Wackenhut's petition for review of
27 *Lubin*. The Court of Appeal issued remittitur on April 10, 2017. Eventually through more
28

1 litigation, the parties were able to secure the 130 million dollar settlement that was approved on
2 October 21, 2019 by Judge Highberger in the Los Angeles Superior Court.

3 19. Here, the Parties' agreement to pay Class Counsel Fees in the amount of
4 \$620,400.00. Plaintiffs' counsel have borne the entire risk and cost of this litigation on a pure
5 contingency fee basis. The legal issues raised drew significantly upon my firm's and co-counsel's
6 experience and the extensive review and analysis of documents and information by me and others
7 at my firm and our co-counsel. In a complex action such as this, the proposed attorneys' fees
8 are, at the very least, on the low side of the market rate for contingency fees.

9 20. In addition to the requested attorneys' fees, our office has expended approximately
10 \$9,251.90 in costs in prosecuting this action. These costs have been necessary costs associated
11 with prosecution of this important matter. Counsel for Plaintiff respectfully requests the Court
12 grant the request to have these costs repaid from the Settlement. Attached hereto as **Exhibit 1** is a
13 true and correct copy of my firm's Billing Detail.

14 I declare under penalty of perjury that the foregoing is true and correct. Executed on
15 September 23, 2024 at Irvine, California.

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James R. Hawkins

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EXHIBIT 1

Matter Billing Detail

Report Date: 9/17/2024
Report Time: 1:35PM
Page: 1 of 2
User ID: Gutierrez

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 09/17/2024
Client: ADVENTISTWET - Kevin Tobin
Matter: ADVENTIST HEALT - Adventist Health System/West w/ PAGA COA - Kevin Tobin v. Adventist Health

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	\$0.00						
09/01/2022	FIL	Filing Fee - LWDA Filing Fee	\$75.00		Unbilled				
09/01/2022	POS	Postage- 09.01.22 Certified Mail to Agent(s) re LWDA filing	\$8.54		Unbilled				
11/07/2022	FST	First Legal Network - E-Filing - Complaint, Summons, Civil Case Cover IN# 30219274	\$1,613.95		Unbilled				
01/20/2023	FST	First Legal Network - E-Filing - Proof; Service - Summons IN# 30224217	\$37.70		Unbilled				
02/23/2023	FST	First Legal Network - Process Serve - S&C, Initial Docs, Ntcs of CMC IN# 30224217	\$207.46		Unbilled				
02/27/2023	FST	First Legal Network - E-Filing - Case Management Conference Statement IN# 30230586	\$37.70		Unbilled				
06/09/2023	FST	First Legal Network - E-filing - CM Statement IN# 30240914	\$37.70		Unbilled				
06/27/2023	FST	First Legal Network - E-Filing - Compint: 1st Ameneded IN# 30244254	\$37.70		Unbilled				
09/14/2023	FST	First Legal Network - Filing - CMC Statement In# 30252348	\$37.70		Unbilled				
02/13/2024	MED	Mediation Services-CK#11517 IN#060424H	\$5,500.00		Unbilled				
02/23/2024	FST	First Legal Network - Filing - Proposed Stipulation Order IN# 30271388	\$108.45		Unbilled				
06/11/2024	EXA	Expert Analysis- IN#240603 CK#11905	\$1,550.00		Unbilled				
		Total:	\$9,251.90	\$0.00					
		Balance:	\$9,251.90						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed-----			\$0.00						
Total Fees Unbilled : -----			\$0.00						
Total Fees Received : -----			\$0.00						
Total Soft Cost Billed : -----			\$0.00						
Total Soft Cost Unbilled : -----			\$0.00						
Total Soft Cost Received : -----			\$0.00						
Total Hard Cost Billed : -----			\$0.00						
Total Hard Cost Unbilled : -----			\$9,251.90						
Total Hard Cost Received : -----			\$0.00						
Total Taxes Billed : -----			\$0.00						
Total Taxes Unbilled : -----			\$0.00						
Total Taxes Received : -----			\$0.00						
Total Late Charges Billed : -----			\$0.00						
Total Late Charges Unbilled: -----			\$0.00						
Total Late Charges Received : -----			\$0.00						
Trust Balance: -----			\$0.00						