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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FLORENTINO LOPEZ, individually,
 and on behalf of all others similarly
 situated,

Plaintiff,

vs.

UTILITY TREE SERVICE, LLC, a
 Pennsylvania Limited Liability
 Company; and DOES 1 through 10,
 inclusive,

Defendant.

LUIS HERNANDEZ, individually,
 and on behalf of all others similarly

Case No. 3:22-cv-01404-JES-DDL

**DECLARATION OF JUSTIN F.
 MARQUEZ IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 FINAL APPROVAL OF CLASS
 AND PAGA ACTION
 SETTLEMENT**

*[Filed with Plaintiffs' Notice of
 Motion and Motion for Final Approval
 of Class and PAGA Action Settlement,
 Declaration of Kane Moon,
 Declaration of Plaintiff Florentino
 Lopez, Declaration of Luis Hernandez,
 and [Proposed] Order]*

FINAL APPROVAL HEARING

1 situated,

2 Plaintiff,

3 vs.

4 UTILITY TREE SERVICE, LLC, a
5 Pennsylvania Limited Liability
Company; and DOES 1 through 10,
inclusive,

6 Defendant.
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Date: May 22, 2024
Time: 9:00 a.m.
Action Filed: September 15, 2022

Hon. James E. Simmons, Jr.
Courtroom 4(B), 4th Floor
United States Courthouse
221 West Broadway
San Diego, California 92101

DECLARATION OF JUSTIN F. MARQUEZ

I, Justin F. Marquez, 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 Luis Hernandez (“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 Plaintiffs’ Motion for Final Approval of Class Action Settlement.

CASE BACKGROUND

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiffs Florentino Lopez and Luis Hernandez (collectively, “Plaintiffs”) and the putative class members worked in California as hourly-paid or non-exempt employees for Defendants Utility Tree Service, LLC (“Defendants”) during the class period. Defendant contracts with electrical utilities to trim trees around power lines.

3. Plaintiffs allege that Defendants’ payroll, timekeeping, and wage and hour practices resulted in numerous Labor Code violations. Specifically, Plaintiffs allege that Defendants failed to, *inter alia*, pay for all hours worked, provide employees with legally compliant meal and rest periods, indemnify employees for all necessary business expenses, and provide timely wages. Based on these allegations, Plaintiffs assert claims against Defendants for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to indemnify for necessary business expenses, failure to timely pay all final wages at termination, failure to provide accurate itemized wage statements, unfair business practices, and civil penalties under PAGA.

1 4. On October 26, 2022, Plaintiff Hernandez filed a putative wage and hour
2 class action complaint in the Superior Court of California, County of Ventura, case
3 number 56-2022-00571736-CU-OE-VTA, entitled *Luis Hernandez v. Utility Tree*
4 *Services, LLC* against Defendants for: (1) failure to pay minimum and straight time
5 wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest
6 periods; (4) failure to timely pay final wages at termination; (5) failure to provide
7 accurate itemized wage statements; (6) failure to indemnify necessary business
8 expenses; and (7) unfair business practices.

9 5. On October 31, 2022, Plaintiff Hernandez sent a notice to Defendants
10 and the California Labor & Workforce Development Agency (“LWDA”) alleging
11 similar wage and hour violations pursuant to the PAGA. Attached as **Exhibit A** to
12 this Declaration is a true and correct copy of Plaintiff Hernandez’s Notice of Labor
13 Code Violations and PAGA Penalties.

14 6. On December 22, 2022, this action was removed to federal court and is
15 currently pending the Central District of California, Case Number 2:22-cv-09283-
16 JFW-KS.

17 DISCOVERY AND INVESTIGATION

18 7. Following the filing of the initial Complaint, the Parties exchanged
19 documents and information before mediating this action. Defendant produced a
20 sample of timekeeping and pay records for the class members. Defendants also
21 provided documents of their wage and hour policies and practices during the class
22 period and information regarding the total number of current and former employees
23 in their informal discovery responses. In total, Defendant produced policy
24 documents and corresponding time/wage records for approximately 77,088
25 workweeks worked by employees during the class period.

26 8. After reviewing documents regarding Defendant’s wage and hour
27 policies and practices, analyzing Defendant’s timekeeping and payroll records, and
28 interviewing Class Members, Class Counsel was able to evaluate the probability of

1 class certification, success on the merits, and Defendant's maximum monetary
2 exposure for all claims. Class Counsel was also able to evaluate the extent to which
3 Defendant paid premium wages for non-compliant meal and rest periods. Class
4 Counsel also investigated the applicable law regarding the claims and defenses
5 asserted in the Litigation. Class Counsel reviewed these records and utilized an
6 expert to prepare a damages analysis prior to mediation.

7 SETTLEMENT NEGOTIATIONS

8 9. On April 26, 2023, the Parties participated in private mediation with
9 experienced class action litigator and mediator Lisa Klerman, Esq. The mediation
10 was conducted via Zoom. The settlement negotiations were at arm's length and,
11 although conducted in a professional manner, were adversarial. The Parties went
12 into the mediation willing to explore the potential for a settlement of the dispute, but
13 each side was also prepared to litigate their position through trial and appeal if a
14 settlement had not been reached.

15 10. After extensive negotiations and discussions regarding the strengths and
16 weaknesses of Plaintiffs' claims and Defendants' defenses, the Parties reached a
17 settlement following the issuance of a mediator's proposal, the material terms of
18 which were subsequently incorporated in the Parties' proposed Settlement
19 Agreement. A true and correct copy of the Joint Stipulation of Class Action and
20 PAGA Settlement and Release is attached as Exhibit 1 is to the Declaration of Kane
21 Moon.

22 11. Class Counsel submitted the proposed Settlement to the LWDA before
23 filing the Motion for Preliminary Approval. A true and correct copy of the
24 confirmation email received by from the LWDA is attached as Exhibit 2 to the
25 Declaration of Kane Moon.

26 12. Pursuant to the terms of the Settlement Agreement, on September 25,
27 2023, Plaintiff Hernandez was added to the earlier-filed matter via a joint stipulation
28 between the parties, *Florentino Lopez v. Utility Tree Service, LLC*, case number 22-

cv-1404-RSH-DDL (“Lopez Matter”), currently pending in the Southern District of California. On September 29, 2023, the Court in the Lopez Matter granted the Parties’ Motion for Leave to File Third Amended Complaint adding Plaintiff Hernandez to the action.

13. The Court issued its Order granting Plaintiffs’ Motion for Preliminary Approval on January 22, 2024.

THE REQUEST FOR ATTORNEYS’ FEES AND COSTS IS REASONABLE

14. The Settlement provides for attorney’s fees payable to Class Counsel in an amount up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$283,333.33, plus actual costs and expenses not to exceed \$25,000. The proposed award of attorneys’ fees to Class Counsel in this case can be justified under either method – lodestar or percentage recovery. Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the percentage method as many of the entries in the time records will have to be redacted to preserve attorney-client and attorney work product privileges.

15. The total current lodestar for Wilshire Law Firm, PLC is not less than the following:

Person	Role	Hours	Rate	Lodestar
Justin F. Marquez	Senior Partner	28.6	\$1,500	\$42,900
Benjamin H. Haber	Associate Attorney	47.9	\$750	\$35,925
Daniel J. Kramer	Associate Attorney	62.3	\$700	\$43,610
Total:				\$122,435

16. Plaintiffs’ counsel has spent over 138 hours litigating this Action to bring it to resolution, not including time which will be expended monitoring the administration of the settlement and distribution of funds to the Class Members. The efforts expended by Plaintiffs’ counsel to achieve this result include, but are not limited to, the following:

- a. the investigation of the matter, including meeting with Plaintiff Luis Hernandez, reviewing Defendants' policies, and requesting and reviewing Plaintiff's time and pay records, personnel files, and exploring the corporate structure of Defendant;
- b. filing the Action;
- c. meeting and conferring with Plaintiff Florentino Lopez's counsel to determine how to coordinate efforts ahead of mediation;
- d. meeting and conferring with Defendant regarding mediation, exchange of informal discovery beforehand, and negotiating with opposing counsel regarding the parameters thereof;
- e. working with opposing counsel, Plaintiff Lopez's counsel, and consultants for the receipt of a representative sampling and analyzing the same with the aid of expert consultants and Plaintiff to perform analyses of liability and exposure prior to attendance of the mediation in this matter;
- f. reviewing policy documents from Defendant;
- g. attendance at mediation by all Parties and Counsel;
- h. communicating with Plaintiff who requested updates or other information regarding this matter;
- i. negotiating, finalizing and fully executing the Settlement Agreement, in which various drafts were distributed;
- j. communicating with Plaintiff Lopez's counsel regarding the preparation and filing of the Motion for Preliminary Approval and supporting documents;
- k. preparing and filing the Motion for Preliminary Approval and supporting documents;
- l. communicating with class members who sought additional information regarding the settlement, including answering questions regarding the

1 settlement and obtaining updated addresses from class members for
2 purposes of receiving the class notices and administering the settlement
3 checks; and

4 m. preparing the Motion for Final Approval.

5 17. There are additional hours devoted by me (and by my colleagues) to this
6 litigation that are not reflected in Class Counsel's request for attorney's fees.

7 18. We can provide complete, detailed billing records in the event the Court
8 requests them, but would request the opportunity to redact attorney-client privileged
9 information and any other privileged information.

10 19. Additional time will be required by Class Counsel to obtain final
11 approval of the settlement and requested awards, monitor the settlement and respond
12 to class member inquiries, and oversee administration of the settlement and
13 distribution of the fund. I estimate that my office will commit no less than 8 hours to
14 those tasks and have included those hours above. Given my firm's time spent on this
15 case and the positive reaction by the class, the requested fee award is reasonable and
16 fair.

17 20. The risk to my office has been very significant, particularly if we would
18 not be successful in pursuing this class action. In that case, we would have been left
19 with no compensation for all the time taken in litigating this case. Indeed, I have
20 taken on a number of class action cases that have resulted in thousands of attorney
21 hours being expended and ultimately having certification denied or the defendant
22 company going bankrupt. The contingent risk in these types of cases is very real and
23 they do occur regularly. Furthermore, we were precluded from focusing on, or taking
24 on, other cases which could have resulted in a larger, and less risky, monetary gain.

25 21. Because most individuals cannot afford to pay for representation in
26 litigation on an hourly basis, Wilshire Law Firm, PLC represents virtually all of its
27 employment law clients on a contingency fee basis. Pursuant to this arrangement,
28 we are not compensated for our time unless we prevail at trial or successfully settle

1 our clients' cases. Because Wilshire Law Firm, PLC is taking the risk that we will
 2 not be reimbursed for our time unless our client settles or wins his or her case, we
 3 cannot afford to represent an individual employee on a contingency basis if, at the
 4 end of our representation, all we are to receive is our regular hourly rate for services.
 5 It is essential that we recover more than our regular hourly rate when we win if we
 6 are to remain in practice so as to be able to continue representing other individuals
 7 in civil rights employment disputes.

8 22. Wilshire Law Firm, PLC has a fee-splitting agreement with Moon Law
 9 Group, PC, counsel for Plaintiff Florentino Lopez in this case. The attorneys fees in
 10 this action shall be divided 75% to Moon Law Group, PC and 25% to Wilshire Law
 11 Firm.

12 23. As of the drafting of this motion, my office has incurred around
 13 \$4,744.81 in expenses litigating this action. These expenses are reasonably
 14 necessary to the litigation and were actually incurred by my office. We also
 15 anticipate additional costs in the amount of \$300.00, which includes the costs for
 16 preparing the Plaintiffs' Motion for Final Approval and appearing at the hearing.
 17 Accordingly, my office respectfully requests reimbursements of \$5,044.81. Attached
 18 as **Exhibit B** is a list of the costs and the categories of costs for the costs incurred in
 19 this case to date.

20 EXPERIENCE AND QUALIFICATIONS

21 24. Wilshire Law Firm, PLC has been selected by Best Lawyers and U.S.
 22 News & World Report as one of the nation's Best Law Firms since 2020 and is
 23 comprised of over 70 attorneys and over 500 employees. Wilshire Law Firm, PLC
 24 is actively and continuously practicing in employment litigation, representing
 25 employees in both individual and class actions in both state and federal courts
 26 throughout California.

27 25. Wilshire Law Firm, PLC is qualified to handle this Litigation because
 28 its attorneys are experienced in litigating Labor Code violations in both individual,

1 class action, and representative action cases. Wilshire Law Firm, PLC has handled,
2 and is currently handling, numerous wage and hour class action lawsuits, as well as
3 class actions involving consumer rights and data privacy litigation.

4 26. I graduated from the University of California, Los Angeles's College
5 Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese,
6 magna cum laude and Phi Beta Kappa. As an undergraduate, I also received a
7 scholarship to study abroad for one year at Tokyo University in Tokyo, Japan. I
8 received my Juris Doctor from Notre Dame Law School in 2008.

9 27. My practice is focused on advocating for the rights of consumers and
10 employees in class action litigation and appellate litigation. I am currently the
11 primary attorney in charge of litigating several class action cases in state and federal
12 courts across the United States.

13 28. I have received numerous awards for my legal work. From 2017 to
14 2020, Super Lawyers selected me as a "Southern California Rising Star," and from
15 2022 to 2024, I was selected as a "Southern California Super Lawyer." I was selected
16 as one of the "Best Lawyers in America" in 2023 and 2024. In 2016 and 2017, the
17 National Trial Lawyers selected me as a "Top 40 Under 40" attorney. I am also rated
18 10.0 ("Superb") by Avvo.com.

19 29. I am on the California Employment Lawyers Association ("CELA")'s
20 Wage and Hour Committee and Mentor Committee, and I was selected to speak at
21 CELA's 2019 Advanced Wage & Hour Seminar on the topic of manageability of
22 class actions and at CELA's 2024 Advanced Wage & Hour Seminar on the topic of
23 multiple cases against the same defendant. Since 2013, I have actively mentored
24 young attorneys through CELA's mentorship program.

25 30. I am also a past member of the Consumer Attorneys of California
26 ("CAOC"). In 2020, I was selected for a position on CAOC's Board of Directors. I
27 am also a past member of CAOC's Diversity Committee, and I helped assist the
28 CAOC in defeating bills that harm employees. Indeed, I recently helped assist

1 Jacqueline Serna, Esq., Legislative Counsel for CAOC, in defeating AB 443, which
 2 proposed legislation that sought to limit the enforceability of California Labor Code
 3 § 226.

4 31. As the attorney responsible for day-to-day management of this matter at
 5 the Wilshire Law Firm, PLC, I have over fourteen years of experience with litigating
 6 wage and hour class actions. Over the last fourteen years, I have managed and
 7 assisted with the litigation and settlement of several wage and hour class actions. In
 8 those class actions, I performed similar tasks as those performed in the course of
 9 prosecuting this action. My litigation experience includes:

- 10 a. I served as lead or co-lead in negotiating class action settlements worth
 11 over \$10 million in gross recovery to class members for each year since
 12 2020, including over \$37.5 million in 2022 and over \$75 million in
 13 2023.
- 14 b. I lead a team of attorneys that successfully obtained class certification
 15 of meal period, rest period, and related derivative claims on April 5,
 16 2024 in *Aguilar-Flores v. Javier's CC LLC*, Los Angeles Superior Court
 17 No. 19STCV36438 (Hon. Elihu M. Berle).
- 18 c. I was part of the team of attorneys that prevailed in *Moore v. Centrelake*
 19 *Medical Group, Inc.* (2022) 83 Cal.App.5th 515, the first California
 20 appellate decision in a data breach class action holding that consumer
 21 plaintiffs adequately alleged injury in fact under the benefit of the
 22 bargain theory and monitoring-costs theory.
- 23 d. In 2022, Top Verdict recognized Wilshire Law Firm and myself for
 24 having one case in the Top 20 Labor & Employment Settlements
 25 (including number 19 for the \$4.1 million settlement in The FPI
 26 Management Wage and Hour Cases) and four additional cases in the
 27 Top 50 Labor & Employment Settlements (numbers 36, 39, 41, and 49).
- 28 e. In 2021, Top Verdict recognized Wilshire Law Firm and myself for

1 having one case in the Top 20 Labor & Employment Settlements
 2 (including number 19 for the \$1.6 million settlement in *Moreno v.*
 3 *Pretium Packaging, L.L.C*) and four additional cases in the Top 50
 4 Labor & Employment Settlements (numbers 27, 30, 33, and 37).

5 f. To my knowledge, I am the only attorney to appear on each of the
 6 following Top Verdict lists for 2018 in California: Top 20 Civil Rights
 7 Violation Verdicts, Top 20 Labor & Employment Settlements, and Top
 8 50 Class Action Settlements.

9 g. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy,
 10 Inc. by winning class certification on behalf of hundreds of thousands
 11 of consumers for misleading advertising claims in *Joseph Mier v. CVS*
 12 *Pharmacy, Inc.*, U.S. Dist. Ct. C.D. Cal. no. SA CV 20-1979-DOC-
 13 (ADSx).

14 h. As lead counsel, I prevailed against Bank of America by: winning class
 15 certification on behalf of thousands of employees for California Labor
 16 Code violations; defeating appellate review of the court's order
 17 certifying the class; defeating summary judgment; and defeating a
 18 motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019)
 19 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019 WL
 20 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug.
 21 2, 2018).). The decision certifying the class in *Frausto* is also discussed
 22 in Class Certification Under Fed. R. Civ. P. 23 in Action by Information
 23 Technology or Call Center Employees for Violation of State Law Wage
 24 and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.

25 i. I was the primary author of the class certification and expert briefs in
 26 *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and
 27 hour class action for over 40,000 class members for off-the-clock, meal
 28 period, split shift, and reimbursement claims. *ABM Industries Overtime*

Cases is the first published California appellate authority to hold that an employer’s “auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)¹ Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.

j. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under the PAGA cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.² Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.

k. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al.*

¹ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

² <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

1 *v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433
 2 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In
 3 doing so, the Court found: “Class Counsel’s declarations show that the
 4 attorneys are experienced and successful litigators.” (*Id.* at p. *10.)

5 1. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS
 6 129852, a reported decision permitting class-wide discovery even
 7 though the employer has a lawful policy because “[t]he fact that a
 8 company has a policy of not violating the law does not mean that the
 9 employees follow it, which is the issue here.” The court also ordered
 10 defendant to pay for the cost of *Belaire-West* notice.

11 m. In 2013, I represented a whistleblower that reported that his former
 12 employer was defrauding the State of California with the help of bribes
 13 to public employees. The case, a false claims (qui tam) action, resulted
 14 in the arrest and criminal prosecution of State of California employees
 15 by the California Attorney General’s Office.

16 n. In 2013, I was part of a team of attorneys that obtained conditional
 17 certification for over 2,000,000 class members in a federal labor law
 18 case for misclassification of independent contractors that did
 19 crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D.
 20 Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-
 21 plaintiff reported decisions:

22 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding
 23 that an unaccepted Rule 68 offer doesn’t moot plaintiff’s claims,
 24 and granting plaintiff’s motion to strike defendant’s affirmative
 25 defenses based on *Twombly/Iqbal*).

26 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order
 27 granting conditional collective certification).

28 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming

the magistrate judge’s discovery ruling which held that “evidence of other sources of income is irrelevant to the question of whether a plaintiff is an employee within the meaning of the FLSA”).

iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because “an FLSA plaintiff is entitled to discovery from locations where he never worked if he can provide some evidence to indicate company-wide violations”).

o. From 2012 to 2013, I was part of a team of attorneys that obtained class certification for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court. Case No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

32. My current contingent billing rate of \$1,500.00 per hour is consistent with my practice area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly rates:

a. I have been paid for legal industry consulting services at \$1,500 per hour by Gerson Lehrman Group (GLG), a company that provides financial information and advises investors and consultants with business clients seeking expert advice. GLG is one of the largest companies that provides expert consulting services. GLG’s clients include corporations, hedge funds, private equity firms, and consulting firms. I have worked with GLG on numerous occasions at a rate of \$1,500 per hour, including on three recent occasions in October and November of 2023.

b. On January 11, 2024, the Hon. Laurel Beeler of the United States District Court, Northern District of California approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Suarez v. Bank of America, N.A.* (N.D. Cal. Jan. 11, 2024),

No. 18-cv-01202-LB, 2024 WL150721, *3 (“As for the lodestar cross-check, the billing rates are normal and customary for timekeepers with similar qualifications and experience in the relevant market.”)

c. My \$1,500 hourly rate was approved by many California state courts:

i. On December 8, 2023, the Hon. Marcella O. McLaughlin of the San Diego County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Payabyab v. Bridge Hospice, LLC*, Case No. 7-2021-00046218-CU-OE-CTL.

ii. On January 11, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Gutierrez v. Next Level Door & Millwork, Inc.*, Case No. CVRI2105455.

iii. On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Sunshine Retirement Wage and Hour Cases*, Case No. JCCP 5247.

iv. On January 26, 2024, the Hon. Loren G. Freestone of the San Diego Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Lupercio v. Western CNC, Inc.*, Case No. 37-2021-00010314-CU-OE-CTL.

v. On February 1, 2024, the Hon. Joseph T. Ortiz of the San Bernardino Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Jackson, et al. v. Apple Valley Communications, Inc., et al.*, Case No. CIVSB2124721.

- vi. On February 2, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Barrera v. Paradise Chevrolet Cadillac*, Case No. CVSW2107199.
- vii. On January 11, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Gutierrez v. Next Level Door & Millwork, Inc.*, No. CVRI2105455.
- d. On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District Court in Puerto Rico approved my \$850 hourly rate when he granted final approval of the class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt. 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- e. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court approved my \$800 hourly rate when he granted final approval of the class action settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-01066522-CU-OE-CXC.
- f. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District Court granted final approval of the \$1,600,000 class action settlement in *Carlos Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the Court approved my then \$750 hourly rate after finding it was “reasonable, given the qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)
- g. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior Court approved my \$750 hourly rate when he granted final approval of the class action settlement in *Faye Zhang v. Richemont*

1 *North America, Inc.*, Case No. 19STCV32396.

2 33. The reasonableness of my firm's hourly rates is also supported by
3 several surveys of legal rates, including the following:

4 a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which
5 presents the real market rates of Los Angeles area attorneys who practice
6 litigation. For that category, the third quartile 2022 rate was \$1,045 per
7 hour for partners and \$855 for associates. Likewise, page 32 of the
8 Report describes the rates charged by 183 Los Angeles partners with
9 "21 or more years of experience" and "Fewer than 21 years." For those
10 categories, the third quartile Los Angeles partner rate in 2022 were
11 \$1,133 per hour for 21 or more years and \$1,075 for attorneys with fewer
12 than 21 years. A true and correct copy of portions of the 2022 Real Rate
13 Report is attached hereto as Exhibit C.

14 b. In an article entitled "Big Law Rates Topping \$2,000 Leave Value 'In
15 Eye of Beholder,'" written by Roy Strom and published by Bloomberg
16 Law on June 9, 2022, the author describes how Big Law firms have
17 crossed the \$2,000-per hour rate. The article also notes that law firm
18 rates have been increasing by just under 3% per year. A true and correct
19 copy of this article is attached hereto as Exhibit D.

20 34. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire
21 Law Firm. His current hourly rate is \$750. He graduated from the University of
22 California, Los Angeles, with a Bachelor of Arts in Political Science, and received
23 his Juris Doctor from the University of California, Hastings College of the Law in
24 2016. During law school, he was a member of the executive board for the Hastings
25 Law Journal and student mediator at the San Francisco Superior Court, Small Claims
26 Division. He was admitted to practice law in the State of California in 2017. Since
27 graduating from law school, he has focused his legal work primarily on wage-and-
28 hour litigation and has helped obtain dozens of settlements on behalf of tens of

1 thousands of workers in California.

2 35. Daniel J. Kramer is a seventh-year Associate Attorney at Wilshire Law
3 Firm, PLC. His current contingent billing rate for this case is \$700 per hour, which
4 is consistent with his level of experience. He was admitted to practice law in the
5 State of California and the Central, Eastern, Southern, and Northern Districts of
6 California. He graduated from Stanford University with a Bachelor of Arts in
7 History and Political Science, and received his Juris Doctor from Loyola Law
8 School, Los Angeles in 2016. During law school, he was a research editor for the
9 Loyola of Los Angeles International and Comparative Law Review. Before joining
10 Wilshire Law Firm, he practiced briefly at a firm that focused on municipal law and
11 code enforcement and then moved to a respected plaintiff-side firm to practice wage
12 and hour class action litigation. He has several years of work experience litigating
13 wage and hour class actions.

14 I declare under penalty of perjury under the laws of the State of California and
15 the United States that the foregoing is true and correct.

16 Executed on April 19, 2024, at Los Angeles, California.

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18 /s/ Justin F. Marquez
19 Justin F. Marquez
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