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DANIEL ROSAS MOLINA, on behalf of himself
and all similarly situated employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

DANIEL ROSAS MOLINA, on behalf of himself and all similarly situated employees,

Plaintiff,

v.

DHT, INC.; and DOES 1 through 50, inclusive,

Defendants.

Case No. 23CV002406

DECLARATION OF SEAN S. KANESHIRO IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: November 20, 2026
Time: 8:30 a.m.
Dept.: 14

I, Sean S. Kaneshiro, declare as follows:

1. I am an attorney at law duly admitted to practice before all courts in the State of California and am a member of the law firm of Fitzpatrick & Swanston, one of the attorneys of record for Daniel Rosas Molina ("Plaintiff") in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called upon as a witness to testify thereto, I could and would competently do so.

I. CASE SUMMARY

2. On November 18, 2022, Plaintiff submitted notice to the California Labor and Workforce Development Agency ("LWDA") of alleged Labor Code violations by Defendant DHT Incorporated dba Midas Auto Care ("Defendant") and of his intent to pursue representative claims on behalf of himself and other aggrieved employees.

3. After expiration of the applicable notice period, on July 26, 2023, Plaintiff filed this action in the Superior Court of California, County of Monterey, individually and on behalf of similarly situated employees. The Complaint asserted individual, class, and representative claims arising from Defendant's alleged wage-and-hour practices.

4. On January 29, 2024, Plaintiff filed the operative First Amended Complaint ("FAC"), further alleging that Defendant's policies and practices were applied on a broader basis to non-exempt employees. The FAC asserts eight causes of action for: (1) failure to provide meal periods or compensation in lieu thereof; (2) failure to provide rest periods or compensation in lieu thereof; (3) failure to pay hourly and overtime wages; (4) failure to comply with itemized wage statement requirements; (5) failure to pay all wages upon termination; (6) failure to indemnify necessary business expenses; (7) civil penalties pursuant to the Private Attorneys General Act ("PAGA"); and (8) unfair business practices.

5. Plaintiff alleges that Defendant maintained uniform wage-and-hour policies and practices affecting Plaintiff and other non-exempt employees, including failing to provide timely, duty-free meal and rest periods; failing to properly compensate employees for overtime and other wages by excluding non-discretionary bonuses and incentive compensation from the regular rate of pay; failing to reimburse necessary business expenses, including expenses

associated with personal cellular phones and other work-related expenditures; issuing inaccurate wage statements; and failing to timely pay all wages due upon separation from employment. Plaintiff further alleges that these practices resulted in corresponding civil penalties under PAGA.

6. Defendant filed its Answer to the FAC on April 24, 2025. Defendant disputes and denies Plaintiff's allegations and claims and denies liability for the alleged Labor Code violations.

7. In an effort to explore an early resolution of the action without the expense of formal litigation, the Parties agreed to engage in informal discovery. In connection with that process, Defendant produced a sampling of timekeeping and payroll records and related data for Plaintiff and 37 other putative class members who collectively worked 17,676 shifts, as well as relevant policy and personnel documents.

8. Plaintiff and his counsel reviewed and analyzed the information produced by Defendant in preparation for mediation. According to the data produced, the putative class consists of approximately 114 employees who collectively worked approximately 6,706 workweeks. The PAGA group consists of approximately 54 aggrieved employees who collectively worked approximately 1,584 pay periods during the relevant period. Based on Defendant's production of records for a sample of 38 employees, representing approximately 33.3% of the putative class, Plaintiff and his counsel were able to evaluate the merits of the claims and Defendant's potential exposure.

II. SETTLEMENT NEGOTIATIONS

9. After thorough investigation and evaluation of the facts and claims at issue, the Parties attended a full-day mediation with the Honorable Paul Burdick (Ret.).

10. Following arm's-length negotiations facilitated by Judge Burdick, the Parties reached a settlement resolving the class and PAGA claims asserted in this Action. The Parties thereafter memorialized the terms of their settlement in the Joint Stipulation of Class Action and PAGA Settlement and Release.

III. SUMMARY OF THE SETTLEMENT TERMS

11. A true and correct copy of the Parties' Joint Stipulation and Settlement Agreement for Class Action and PAGA Claims ("Settlement Agreement") is attached hereto as **Exhibit A.**

12. The Settlement provides for a Gross Settlement Amount of $135,000.00, which Defendant will pay on a non-reversionary basis. See SAR ¶¶ 17, 55. After deductions for Class Counsel's attorneys' fees of up to $44,995.50, litigation costs and expenses of up to $10,000.00, Plaintiff's Service Award of up to $5,000.00, PAGA penalties of $5,000.00, and Settlement Administration Costs of up to $7,000.00, the Net Settlement Amount is estimated to be approximately $63,004.50. See SAR ¶ 61.a–d. Participating Class Members are not required to submit claim forms and will receive a pro rata share of the Net Settlement Amount based on the number of workweeks they worked during the Class Period. See SAR ¶ 62(a).

13. Based on an estimated Class of 114 individuals, the raw average payment from the Net Settlement Amount is approximately $552.67 per Participating Class Member ($63,004.50 ÷ 114). Because the Net Settlement Amount will be allocated based on the 6,706 workweeks worked by Class Members during the Class Period, the estimated Workweek Value is approximately $9.40 per workweek. The amount actually paid to each Participating Class Member will therefore increase or decrease depending on the number of qualifying workweeks credited to that individual.

14. In addition, the Settlement allocates $5,000.00 to PAGA penalties, of which 75%, or $3,750.00, will be paid to the Labor and Workforce Development Agency and 25%, or $1,250.00, will be distributed to PAGA Members on a pro rata basis. See SAR ¶ 61.c. PAGA Members are defined as all non-exempt, hourly employees who worked for Defendant in California at any time from November 18, 2021, through June 30, 2026. See SAR ¶¶ 24, 27.

15. Additionally, as part of the payment of PAGA penalties, 25% of the PAGA Payment, or $1,250.00, shall be paid to PAGA Group Members on a pro rata basis, based on the number of pay periods they were employed during the PAGA Period. See SAR ¶ 61.c. Based on the data provided by Defendant prior to mediation, there are an estimated 54 PAGA

Group Members. Accordingly, on a raw average basis, each PAGA Group Member is estimated to receive approximately $23.15 ($1,250.00 ÷ 54 PAGA Group Members), with the actual amount distributed to each PAGA Group Member varying based on the number of pay periods worked during the PAGA Period.

IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

16. In advance of mediation, Defendant produced timekeeping and payroll records and related employment data for a sample of putative Class Members. Defendant produced shift and payroll data for 38 unique employees, reflecting 17,676 shifts. Based on Defendant's data, Plaintiff estimated that the putative Class consisted of approximately 114 employees who worked 6,706 workweeks, and that Defendant faced total potential exposure of approximately $1,664,764.81 on Plaintiff's class and representative claims. Specifically, Plaintiff calculated the following approximate exposure:

a. $282,819.60 for meal period violations, based on a 24% violation rate derived from Defendant's sample timekeeping records. Of 16,722 meal-period-eligible shifts in the sample, 4,120 reflected a missed or late meal period. Extending that violation rate to the putative Class resulted in approximately 12,040 estimated violations.

b. $291,017.61 for rest period violations. Because Defendant did not record rest periods, Plaintiff conservatively applied the same 24% violation rate reflected in the meal-period data to the estimated 51,621 rest-period-eligible shifts, resulting in approximately 12,389 estimated violations to the putative Class.

c. $167,788.76 for underpaid overtime, sick pay, and vacation wages resulting from Defendant's alleged failure to include non-discretionary bonuses in employees' regular rates of pay. Of the 37 employees for whom Defendant produced sample payroll data, 12 received bonuses, which represented approximately 20% of their total compensation. Plaintiff applied the resulting regular-rate adjustment to estimate class-wide underpayments.

d. $33,530.00 for unreimbursed business expenses, including required personal cell phone use, work boot purchases, and gas and mileage, based on an estimate of $10 per pay period for the approximately 3,353 pay periods worked by putative Class Members.

e. $569,397.60 in waiting time penalties, based on approximately 101 former employees, an average hourly rate of $23.49, and the maximum 30-day penalty provided by Labor Code section

203.

f. $329,600.00 in wage statement penalties under Labor Code section 226, based on approximately 114 Class Members and 3,353 pay periods, applying the statutory penalties and individual $4,000 cap where appropriate.

17. Plaintiff further estimated the maximum potential PAGA penalties to be approximately $158,400.00. This amount was calculated based on approximately 1,584 pay periods worked by approximately 54 aggrieved employees during the relevant PAGA period and a $100 penalty per pay period, assuming that the Court would not "stack" PAGA penalties for distinct violations of the Labor Code or award heightened penalties for subsequent violations. Here, the proposed $5,000 PAGA settlement represents approximately 3.2% ($5,000 ÷ $158,400) of the potentially available PAGA penalties, which factors in the risks if the case were to proceed through further litigation and appeals.

18. On the merits, there are also significant risks presented if Plaintiff was to move forward with litigation. Defendant maintains that its written policies complied with California law, including policies requiring timely meal periods, authorizing rest periods, and prohibiting off-the-clock work. Defendant further contends that Plaintiff and other employees were paid pursuant to lawful compensation arrangements, including individualized bonus agreements, and that its records demonstrate compliance with its wage-and-hour obligations.

19. With respect to meal and rest period claims, Plaintiff contends that Defendant's timekeeping records demonstrate a pattern of noncompliant breaks. Of the 16,722 meal-period-eligible shifts in Defendant's sample, approximately 24% reflected a missed or late meal period. Based on this sample, Plaintiff calculated Defendant's total potential exposure to the full Class at 12,040 violations for $282,819.60. Plaintiff applied the same violation rate to rest periods, which Defendant did not record, resulting in estimated exposure of $291,017.61. At mediation, Plaintiff contended that *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74-78 supported a rebuttable presumption of meal period violations based on Defendant's records. Defendant, however, maintained that it had lawful written policies requiring timely meal periods, authorizing rest periods, and prohibiting off-the-clock work. Defendant relied on *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004,

1040, to argue that an employer need only provide employees the opportunity to take compliant breaks and is not required to police whether they do so. Defendant further contended that determining why individual employees missed or took late breaks would require individualized inquiries, creating a significant risk to both class certification and Plaintiff's ability to establish class-wide liability.

20. With respect to the unpaid wage claims, Plaintiff contends that Defendant failed to properly calculate employees' regular rates of pay by excluding non-discretionary bonuses and incentive compensation when calculating overtime, sick pay, and vacation wages. At mediation, Plaintiff relied on *Alvarado v. Dart Container Corp.* (2018) 4 Cal.5th 542, 573, for the principle that non-discretionary bonus compensation must be incorporated into the regular rate when calculating overtime compensation. Defendant's sample payroll records showed that 12 of the 37 sampled employees received bonuses, which represented approximately 20% of their total compensation. Extending these resulting underpayments to the Class, Plaintiff estimated potential exposure of $167,788.76 for underpaid overtime, sick pay, and vacation wages. Defendant disputes these claims, maintaining that employees were properly paid and that performance-based bonuses were limited to certain Service Advisors and managers and were governed by individualized agreements with differing bonus structures. Defendant therefore asserted that the claims present individualized issues unsuitable for class treatment, and that only seventeen employees received these bonuses during the Class Period.

21. With respect to unreimbursed business expenses, Plaintiff contends that Defendant violated Labor Code section 2802 by failing to reimburse employees for necessary expenditures incurred for Defendant's benefit, including work-related use of personal cell phones, required non-slip work boots, and mileage or vehicle expenses incurred performing work-related errands between Defendant's locations. At mediation, Plaintiff relied on *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144, which held that an employer must reimburse a reasonable portion of an employee's personal cell phone expenses when the phone is required for work. For mediation purposes, Plaintiff estimated these

expenses at $10 per pay period, resulting in potential class-wide exposure of $33,530. Defendant disputed the claim, contending that employees were not required to use their personal cell phones because company phones were available at both locations and that Defendant supplied the tools and equipment necessary for employees to perform their duties.

22. With respect to waiting time penalties, Plaintiff contends that Defendant failed to pay all wages due to former employees upon separation, including unpaid meal and rest period premiums, regular-rate underpayments, and other compensation. Plaintiff relies on *Naranjo v. Spectrum Security Services, Inc*. (2022) 13 Cal.5th 93, 117 ("*Naranjo*"), which holds that missed-break premium pay constitutes wages that may support waiting time penalties under Labor Code section 203 when the statutory requirements are satisfied. Based on Defendant's data identifying approximately 101 former employees, Plaintiff calculated potential exposure of $569,397.60, assuming the maximum 30-day penalty and an average hourly rate of $23.49. Defendant disputed this derivative claim based on its position that no underlying wages or premiums were owed and, therefore, no unpaid wages remained due at separation. Additionally, Plaintiff also faced a potential defense as to the willfulness required by section 203. *See, e.g. Naranjo, supra*, 13 Cal.5th at pp. 105-106.

23. With respect to wage statement penalties, Plaintiff contends that Defendant's failure to pay and report meal and rest period premiums, regular-rate underpayments, and other compensation resulted in inaccurate wage statements in violation of Labor Code section 226. Plaintiff relied on *Naranjo, supra,* 13 Cal.5th at page 121, which recognizes that unpaid meal and rest period premiums constitute wages and that the failure to report such premiums may support wage statement liability. Based on approximately 114 Class Members and 3,353 pay periods, Plaintiff estimated potential statutory penalties of $329,600, applying the $50 initial and $100 subsequent-pay-period penalties and the $4,000 per-employee statutory cap. Defendant disputed the claim as derivative of the underlying wage-and-hour violations and maintains that no wages or premiums were improperly omitted. Moreover, section 226 penalties require a "knowing and intentional" violation. Defendant was thus entitled to a "good faith" defense on this claim. *See, e.g. Naranjo, supra*, 13 Cal.5th at pp. 103-104.

24. With respect to PAGA, Plaintiff contends that the same Labor Code violations underlying the class claims—including meal and rest period violations, unreimbursed business expenses, wage statement violations, and derivative waiting time violations—support civil penalties on behalf of Plaintiff and other aggrieved employees. Based on Defendant's data identifying approximately 54 aggrieved employees who worked 1,584 pay periods during the PAGA Period, and assuming that penalties would not "stack" for multiple Labor Code violations and that heightened penalties for subsequent violations would not be awarded, Plaintiff applied a single $100 penalty per pay period. Accordingly, Plaintiff estimated Defendant's exposure to PAGA penalties $158,400. Defendant disputed the underlying violations and further contended that even if violations were established, the Court has discretion under Labor Code section 2699 to substantially reduce PAGA penalties where the resulting award would be unjust, arbitrary, oppressive, or confiscatory. Defendant further asserted that its good-faith efforts to comply with California wage-and-hour law and its corrective measures after learning of potential compliance issues are grounds for reducing any penalty award. Accordingly, the PAGA claim presented risks to establishing the predicate Labor Code violations and to the amount of penalties the Court ultimately would impose.

25. From the inception of the case, Plaintiff's counsel have zealously represented the interests of the Settlement Class. The settlement was obtained for the benefit of the Settlement Class, as opposed to the individual Class Representative. Further, Plaintiff's counsel have been approved as class counsel on a number of prior cases, have litigated numerous other class action cases, and are competent to represent the Settlement Class.

26. Both Plaintiff's and Defendant's counsel have a great deal of experience in wage and hour class action litigation. Plaintiff's counsel have been approved as class counsel in a number of wage and hour class action and have extensive litigation experience.

27. Each side has apprised the other of their respective factual contentions, legal theories, and defenses, resulting in negotiations taking place between the Parties.

28. The Parties recognize the risk, expense, and delay in continuing litigation with the class and PAGA claims, and believe the settlement to be fair, reasonable, and adequate.

29. Although Plaintiff believes in the merits of his Class and PAGA claims and that the proposed Class can be certified, the Settlement appropriately accounts for the substantial risks identified above, including Defendant's defenses to the underlying claims, the possibility that Plaintiff would not prevail on one or more claims or theories of liability, the risks associated with class certification, the Court's discretion to substantially reduce PAGA penalties, and the delay and uncertainty associated with trial and potential appeals.

30. Based on a review of all the information and their experience in class action litigation, Class Counsel believes this settlement to be fair, adequate, and reasonable.

31. My office was retained based upon a contingency fee arrangement wherein Plaintiff's counsel agreed to advance all costs and receive no fee unless a recovery was accomplished. Specifically, had Plaintiff failed to prevail in this case, counsel for Plaintiff would have spent a significant amount of time, money and other resources without any benefit or return. In addition, had Plaintiff also failed to prevail in the present case, Defendant would have been able to seek costs in connection with their defense of the case.

V. SETTLEMENT ADMINISTRATION

32. The Parties agreed to settlement administration costs of up to $7,000. Plaintiff solicited competing bids from Phoenix Settlement Administration, which quoted $7,000, and Apex Class Action, which quoted $5,790. The Parties agreed to select Apex Class Action as the administrator, which submitted the lower bid. Based on 114 Class Members, the proposed administration costs amount to approximately $50.79 per Class Member ($5,790). Although this per-member cost is somewhat higher than average, administration costs are generally greater on a per-member basis in smaller class settlements. Given the relatively small class size, the bid is lower than the maximum agreed upon, and the fact that Apex submitted the lowest of the competing bids, the Parties believe the proposed administration costs are reasonable.

VI. ATTORNEY'S EXPERIENCE

33. My qualifications are as follows: I graduated from the University of California, Hastings College of the Law in 2009. From 2009 to 2013, I worked as a reference librarian at

the Alameda County Law Library and then at the UC Hastings College of the Law Library, where my responsibilities included legal research and instruction. From 2013 to 2018, I served as a Reference and E-Resources Librarian and Lecturer in Law at Stanford Law School, where, among other responsibilities, I taught legal research and writing and Advanced Legal Research. From 2018 to 2024, I served as Manager of Collection Development and Research Discovery at the Stanford Graduate School of Business Library.

34. From February 2024 through February 2026, I served as a Research Attorney for the Monterey County Superior Court, where I analyzed and made recommendations to judicial officers in complex civil litigation matters, including the settlement of dozens of wage-and-hour class and PAGA actions.

35. Since February 2026, I have been an associate attorney with Fitzpatrick & Swanston, where my practice focuses on employment litigation and includes work on numerous wage-and-hour class and PAGA actions and mediations.

36. In conjunction with the filing of this Motion, my office will provide notice to the Labor and Workforce Development Agency. Attached as **Exhibit B** is a true and correct copy of the submission confirmation.

37. Rancho Cielo is a Monterey County nonprofit organization that provides vocational education and job training to local residents, including hands-on training in automotive repair and related trades.

38. Plaintiff's counsel does not have any conflicts of interest with Rancho Cielo, which is the proposed *cy pres* beneficiary.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 28th day of October 2026, at Salinas, California.

/s/ Sean S. Kaneshiro

Sean S. Kaneshiro

EXHIBIT A

EXHIBIT B

PROOF OF SERVICE

I am employed in the County of Monterey, State of California. I am over the age of 18 and not a party to the within action; my business address is FITZPATRICK & SWANSTON, 555 S. Main Street, Salinas, California 93901.

On the date written below, I served the foregoing document(s), described as **DECLARATION OF SEAN S. KANESHIRO IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action as indicated below and by the following means:

Kenneth H. Moreno
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Attorneys for Defendants, DHT INCORPORATED

xx **(BY ELECTRONIC SERVICE)** Pursuant to CCP § 1010.6 and Cal. Rules of Court, Rule 2.251, I caused the document(s) to be served, addressed to the person(s) at the e-mail address(es) listed above. I did not receive within a reasonable time after e-service, any electronic message or other indication that e-service was unsuccessful.

_____ **(BY PERSONAL SERVICE)** I caused such document(s) to be delivered by hand to the office(s) of the addressee(s) during business hours.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 28, 2026, at Salinas, California.

Josie Favila