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Attorneys for Plaintiff FREDERICK BERNARD, And the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

FREDERICK BERNARD on behalf of
himself and all similarly situated persons, and
the general public,

Plaintiff,

vs.

OPTIMA TAX RELIEF, LLC; OPTIMA
FINANCIAL GROUP, LLC; and DOES 1
through 25, inclusive,

Defendants.

Case No. 30-2022-01288055-CU-OE-CXC

[Assigned for all purposes to the
Honorable William Claster, Dept. CX101]

**DECLARATION OF MATTHEW
RIGHETTI IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

DATE: September 4, 2026

TIME: 9:00 a.m.

DEPT: CX101

Reservation #: 74922966

1 I, **MATTHEW RIGHETTI**, declare that:

2 I make this declaration of my personal knowledge and could testify thereto if called as a
3 witness.

4 **EDUCATION AND EXPERIENCE**

5 1. I graduated from the University of California at Berkeley in 1982 with a degree in
6 Economics. I then graduated from the University of San Francisco School of Law in 1985. I am
7 admitted to practice law before the following courts: A) United States Court of Appeal in the Ninth
8 Circuit, the Fourth Circuit and the Federal Circuit; B) United States District Courts in the Northern,
9 Central, Eastern, and Southern Districts of California, and the Northern District of Illinois, and C)
10 all of California's state courts.

11 2. I have been practicing law full time for the past thirty-nine (39) years. For the past
12 thirty years, the primary focus of my practice has been complex class action and/or representative
13 action litigation. Much of this litigation has prosecution of wage and hour laws (state and federal),
14 state and federal privacy laws (FCRA, CCPA and CCCRA) and consumer laws. A sampling of
15 some of the more significant class/representative action cases (including wage and hour litigation)
16 handled by Righetti Glugoski, P.C., includes:

- 17 • Co-lead counsel in *Rocher v. Sav-On Drug Stores* (Hon. Victoria G. Chaney, Los Angeles
18 County Superior Court); See, *Sav-On Drug Stores, Inc. v. Superior Court*, (2004) 34 Cal.4th 319
19 (reversing the Second DCA, the California Supreme Court unanimously reinstated the trial court's
20 order granting class certification). The *Sav-On* litigation was settled after the first phase of trial.
- 21 • Lead counsel in *Gentry v. Circuit City Stores, Inc.*, (2007) 42 Cal.4th 443 (reversing the
22 Court of Appeal, the California Supreme Court set forth the factors for trial courts to use in
23 determining whether or not to enforce bans on class actions in employment arbitration agreements).
- 24 • Lead counsel in *Crab Addison v. Superior Court*, (2008) 169 Cal.App.4th 958 [affirming
25 the trial court, the Court of Appeal upheld an order compelling defendant to divulge names and
26 contact information of putative class members in wage and hour overtime action].
- 27 • Lead counsel in *Rutti v. Lojack Corp., Inc.* (2010) 596 F.3d 1046 [granting plaintiffs'
28 petition for rehearing, the Ninth Circuit reversed the district court's summary judgment order

1 setting parameters for the *de minimus* doctrine and compensable “hours worked” under both state
2 and federal law].

3 • Co-lead counsel in *In re Trans Union Privacy Litigation* (MDL, Northern District of
4 Illinois). We were appointed by the Hon. Marvin E. Aspen to serve as co-lead counsel in
5 multidistrict litigation against Trans Union. The litigation focused on Trans Union's use of its vast
6 database of financial information, which includes the confidential financial information of most
7 adults in the United States, to create and sell "target marketing" lists to advertisers in violation of
8 the FCRA. After nearly a decade of litigation the case resulted in a settlement with Trans Union
9 valued at more than \$100 million (including \$75 million in cash). The settlement obtained final
10 approval from the Hon. Robert Gettleman on September 17, 2008. In August 2009, all appeals of
11 the order approving the settlement were dismissed and the settlement became final. Pursuant to the
12 terms of the settlement, credit monitoring relief was distributed to class members as well as a cash
13 payment to class members. We believe the Trans Union certified class is the largest class of
14 individuals ever certified in the United States.

15 • Counsel in *Elder v. Schwan Foods* (individual exemption misclassification) tried to a jury
16 verdict in the Los Angeles Superior Court. First Appeal: On May 12, 2011, the California Court
17 of Appeal reversed a trial court order that failed to award restitution and penalties following a jury
18 verdict in favor of our client. The Court of Appeal ordered the trial court to reconsider the equitable
19 remedies of restitution and civil penalties. Second Appeal: On February 27, 2013, the employer
20 contended it was deprived of its right to a statement of decision because the trial court did not issue
21 a tentative decision. The Court of Appeal rejected the employer's appeal finding both that there
22 was no prejudicial error and there was sufficient evidence in the record to award restitution and
23 civil penalties for violation of California's overtime laws.

24 • Counsel in the matter *Roberto Martinez et al. v. Joe's Crab Shack Holdings et al.*, 231
25 Cal.App.4th 362 (2014) where the Court of Appeal reversed the trial court's denial of class
26 certification in an executive misclassification case.

27 • Co-counsel in cases against Home Depot and 99 Cent Only Stores where the trial courts
28 orders had limited the California Private Attorney General Act (PAGA) only to claims under the

1 Labor Code and not to claims under the IWC Wage Orders. In both cases the Courts of Appeal
2 reversed in published decisions. *See Home Depot v. Superior Court* (2011) 191 Cal.App.4th 210
3 (review denied March 16, 2011) (holding PAGA applicable to seating claims on grounds that Labor
4 Code §1198 incorporates IWC Wage Order protections); *Bright v. 99 Cents Only Stores* (2010)
5 189 Cal.App.4th 1472 (review denied February 16, 2011) (same).

6 • Co-counsel in a PAGA action against Bank of America on behalf of California bank tellers.
7 The case was twice dismissed by Judge Real. Judge Real's orders were both reversed by the Ninth
8 Circuit – *Green v. Bank of America, N.A.* (9th Cir. 2013) __ Fed. Appx., 2013 WL _____ and
9 *Green v. Bank of America, N.A.* (9th Cir. 2015) 634 Fed.Appx. 188. On remand the Ninth Circuit
10 removed the case from the docket of Judge Real and re-assigned the case to Judge Percy Anderson.

11 • Class counsel in the certified class action *Hall v. Rite Aid Corporation* in San Diego County
12 Superior Court. In 2014 the Fourth District Court of Appeal reversed the trial court's decertification
13 order. *See, Hall v. Rite Aid Corporation*, 226 Cal.App.4th 278 (2014, review denied August 27,
14 2014). The case settled for \$18M on the day of trial.

15 • I was co-counsel in litigation against Wal-Mart, JPMorgan Chase Bank and CVS Pharmacy
16 Inc. (*Henderson v. JPMorgan Chase Bank* (C.D. Cal.), No. 2:11-CV-03428), *Brown v. Wal-Mart*,
17 Inc. (N.D. Cal.), No. 5:09-cv-03339-EJD, and *Kilby v. CVS Pharmacy, Inc.* (S.D. Cal.), No. 09-
18 CV-2051-MMA. The district court in *Wal-Mart* granted class certification based on plaintiffs'
19 construction of the law, while the district courts in *CVS* and *JPMorgan Chase* denied class
20 certification after rejecting plaintiffs' construction of the same law. All three cases were then
21 appealed and coordinated before the Ninth Circuit in December 2013. The Ninth Circuit panel
22 asked the California Supreme Court to accept certification of three questions of statutory
23 construction (739 F.3d 1192). More than two years later, after extensive briefing by the parties
24 and *amici*, the California Supreme Court in April 2016 issued its unanimous opinion in *Kilby*
25 setting forth its definitive construction of the law. *Kilby v. CVS* (2016) 63 Cal.4th 1. Based on this
26 construction by the California Supreme Court, the Ninth Circuit affirmed the grant of class
27 certification in *Wal-Mart* (2016 WL 3212265) and reversed the district court orders in *CVS* and
28 *JPMorgan Chase*. Wal-Mart settled for \$65M.

1 3. Righetti Glugoski, P.C. acted as trial counsel in what we believe are the only four
2 class action overtime cases ever to have been successfully tried under the quantitative executive
3 exemption standard articulated in *Ramirez v. Yosemite Water Company*, (1999) 20 Cal.4th 785. I
4 was trial counsel in a class action tried in Los Angeles County Superior Court before the Hon. J.
5 Stephen Czulager, resulting in a finding that U-Haul had misclassified all California salaried
6 “General Managers” as exempt from overtime. I was also trial counsel in a certified class action
7 tried in San Diego County Superior Court before the Honorable Patricia Cowett, resulting in a
8 judgment finding that Party City had misclassified salaried employees as exempt and an award of
9 class wide damages, fees and costs. In the third case, I was trial counsel in the *Sav-on* overtime
10 litigation where, following remand after appeal, we completed the first phase of trial before the
11 Honorable Victoria G. Chaney in Los Angeles County Superior Court (complex). The case was
12 then settled before the second phase of trial. In the fourth trial I was class counsel in a certified
13 class action against Taco Bell alleging that its restaurant general managers were misclassified as
14 exempt under California law. The case was tried in the San Diego County Superior Court before
15 the Hon. Kevin Enright and settled after four weeks of trial.

16 4. I was awarded the Daily Journal 2017 CLAY Award (“California Lawyer of the
17 Year”) for my work on suitable seating litigation. I was also honored as one of the Daily Journal’s
18 Top Labor & Employment Lawyers for 2017. I regularly speak on panels that involve class action,
19 representative action and employment issues such as trial methodology, class certification,
20 discovery and privacy issues, arbitration agreements and releases, mediation and settlement and
21 recent developments in the field. Speaking engagements are typically for organizations such as the
22 American Conference Institute, California Employment Lawyers Association, Bridgeport CEB,
23 Industrial Relations Association, and a wide range of Bar associations.

24 5. Over the years litigating these kinds of cases, we have developed a good deal of
25 appellate experience. It is quite common for our cases to traverse through the appellate courts
26 during the course of proceedings. We have also represented plaintiffs in many other appellate court
27 decisions in state and federal court and at the NLRB. Righetti Glugoski also represents various
28 amicus groups on occasion in court of appeal proceedings. We have handled appeals throughout

1 California and in the federal courts of the Ninth Circuit, the Seventh Circuit, the Fourth Circuit and
2 the Federal Circuit.

3 **HOURLY RATES**

4 6. I believe the fees being sought here are reasonable considering the experience of
5 counsel, the contingent nature of the fee, the risks involved in litigating this case, the caliber, and
6 determination of defense representation and the amount and the quality of work performed.

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

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

16 9. Litigating a case against a corporate defendant, represented by the defense firm
17 defending this case, is not appealing to most lawyers. Heightening the risk is the fact that the
18 plaintiffs' lawyers are called upon to finance the litigation. It is not a cause undertaken lightly.

19 10. One difficulty in determining the hourly rate of attorneys of similar skill and
20 experience in the relevant community is the scarcity of hourly fee-paying clients in wage and hour
21 litigation. As a practical matter, few individual employees can afford to pay attorney fees on an
22 hourly basis. This was certainly the case with Plaintiffs. As a result, retainer agreements we
23 negotiate with individual clients, as in the case here, are typically based upon a contingency fee
24 relationship. In contrast, corporate defendants typically pay their attorneys on an hourly basis.

25 11. I am knowledgeable about the hourly rates charged by attorneys of varying degrees
26 of experience. During my fees practice, I have reviewed the hourly rates of dozens of law firms in
27 California and elsewhere. I am also familiar with the hourly rates awarded in many other fees cases
28 by state and federal courts in California and throughout the country. In addition, I have reviewed

1 many published surveys of attorneys' billing rates. For example, *several years ago* the rates charged
2 by attorneys at Sidley Austin (a defense firm similar in size to Wilson Elser Moskowitz Edelman &
3 Dicker LLP) was between \$925-\$1000 for partners and \$540-905 for associates. Attached hereto
4 (**Exhibit 1**) is a true and correct copy of the 2018 Sidley Austin hourly fee/rate sheet showing
5 Southern California rates.

6 12. The work in this case was taken on a contingency fee basis where we advanced all
7 time and costs. The subject matter involved California wage and hour laws. This is a difficult area
8 of law based on overlapping state and federal statutes and agency interpretations. Work of this type
9 requires specialized learning, experience, and the willingness to take large risks. Working with
10 Reuben Nathan and John Glugoski, we attempted to efficiently litigate the claims in this matter
11 using a high level of skill in the difficult questions that arose in this case. Even with three attorneys
12 working on this case we were outnumbered by defense counsel at every stage.

13 13. A practice like ours can only properly litigate so many cases at one time. There is no
14 question that we were required to assign out and/or turn down work in other cases to meet the
15 demands of this case.

16 14. We did not receive any compensation for our services during the prosecution of this
17 matter. In addition, Righetti Glugoski, P.C. incurred \$14,591.91 in out-of-pocket expenses (as
18 detailed below) to achieve the settlement. The Nathan firm incurred additional out of pocket costs
19 as set forth in the Declaration of Reuben Nathan.

20 15. My current hourly rate is \$1,200.00. Adjusted for inflation, my rate is on par with
21 the 2018 rates of \$925-\$1000 charged by attorneys with similar experience and qualifications who
22 represent commercial and other full-rate clients on an hourly basis. See, e.g., the 2018 Sidley Austin
23 rate sheet referenced above. The hourly rate for my partner John Glugoski who has been practicing
24 over twenty-six years is \$950/hr. We bill the time for paralegal work at \$250/hr.

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

17. These hourly rates are also commensurate with the rates being charged by other law firms in the California market. A report published by the National Law Journal providing the 2017 billing rates for firms based in California or with significant offices in California confirms the reasonableness of our fees. Our hourly rates are also commensurate with the market rates as reflected in a court-approved and adopted survey of attorney hourly rates known as the Laffey Matrix. (See www.laffeymatrix.com, last updated November 19, 2023.)

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

LITIGATION EFFORTS

19. In the instant case, Defendants strongly denied liability and contended that they had meritorious affirmative defenses on both procedural and substantive grounds.

20. The prosecution of this class action case involved a significant financial risk because Class Counsel took this case on a pure contingency basis (meaning no guarantee of ever being paid, if the case is lost), at the same time advancing all litigation costs out of their own pockets, while incurring ongoing costs of paying overhead and salaries of employees who are working on this case. Proposed Class Counsel have worked diligently to advance the interests of the class with no duplication of effort. Proposed Class Counsel recommends settlement on the proposed terms.

21. In addition to informal discovery, Plaintiff through his counsel: 1) Conducted interviews class members and reviewed documents and files; 2) Investigated the Class Members' claims based on the theories of the *Bernard Action*; 3) Researched initial case investigation prior to filing the case, 5) Prepared the initial complaint and two amendments, 5) Propounded voluminous sets of discovery, 6) Prepared and mailed a Belaire-West notice to Class Members, 7) Interviewed over 100 Class Members, 8) Prepared for and attended depositions, 10) Reviewed data and files, 11) Reviewed employment agreements, 12) Creating damage models, 13) Assessed risks including Defendants' insolvency 14) Drafted lengthy 'meet and confer' letters, 15) Prepared stipulations, 16) Reviewed arbitration agreements and employee personnel files and 17) Engaged in litigation strategy.

22. Counsel for Plaintiff have further invested extensive time investigating the

1 applicable law (*Vaquero v. Stoneledge Furniture, et al., Ibarra v. Wells Fargo, et al., Magadia v.*
2 *Walmart, et al., and Ferra v. Loews Hollywood Hotel, et al.*), which is constantly evolving as it
3 relates to class certification, full briefing of motions and issues related to summary judgment, class
4 certification, Plaintiff's claims and damages, the defenses thereto, and facts discovered. Plaintiff
5 believes that the investigation and research discovered through the date of settlement has supported
6 his main contentions alleging that Defendants failed to pay overtime wages, failed to provide
7 required premiums for meal and rest break violations, failed to provide proper wage statements,
8 unlawful deductions, failed to pay all wages owed upon separation, and failed to reimburse
9 individuals for business expenses.

10 23. During all settlement discussions the parties conducted their negotiations at arms'
11 length, and, in spite of a mutual desire to resolve the case, always in an adversarial manner. The
12 parties have been able to construct a settlement that, given the constraints and realities of the case,
13 is fair, reasonable, adequate, and is in the best interests of the Class.

14 24. Consistent with the scope of this action and nature of the relief granted to the Class,
15 and the amount of time expended in prosecution of the case, Plaintiff and Class Counsel hereby
16 move for an award of attorney's fees of \$500,000.00 and costs of \$29,117.68. Pursuant to California
17 Rules of Court, rule 3.769 (b), Class Counsel discloses the existence of a "fee splitting agreement"
18 that has been approved by Plaintiff in writing.¹ Class Counsel advised this Court of the fee-splitting
19 arrangement between Class Counsel at the MPA hearing. Consequently, in accordance with that
20 agreement, Nathan & Associates seeks \$250,00.00 and Righetti Glugoski, PC seeks \$250,000.00 in
21 attorney's fees. Class Counsel requests a total of \$29,117.68 in costs (Nathan & Associates seeks
22 costs in the amount of \$14,525.77 and Righetti Glugoski, PC seeks costs in the amount of
23 \$14,591.91).

24 25. In preparing this fee application, I reviewed the firm's time records, files and emails.
25 Based on my review of these records, I can attest that all of the time set forth was reasonably devoted
26 to pursuing the Plaintiffs' interests and otherwise would have been billed to a fee-paying client. To
27 calculate the lodestar for the time spent on this case, I personally reviewed and summarized the
28 billing records incurred in prosecuting the matter. I eliminated any time entries by me that could be

considered duplicative or inefficient. Righetti Glugoski's time records are detailed in the following categories:

Work Categories	Matt Righetti Hours
1. Case Investigation and Legal Research; Interview witnesses	36.8
2. Discovery / Communications with Defense Counsel	14.7
3. Pleadings, Briefs and Pretrial Motions	19.2
4. Court Appearances	.3
5. Mediation Settlement and Administration	17.6
6. Litigation Strategy, Analysis and Case Management	21.5
TOTAL TIME	110.1
Hourly Rate	\$1200.00
LODESTAR	\$132,120

My partner John Glugoski and co-counsel Reuben Nathan of Nathan & Associates, APC have also provided declarations attesting to the hours each spent on this case in these various categories.

26. It is estimated that Class Counsel will expend (in total) an additional 20 hours of time included their current lodestars for preparing and attending the final approval hearing and overseeing the completion of administration of this Settlement including communicating with numerous Class Members, resolving claims disputes, preparing pleadings for and attending the later hearings, monitoring the distribution of proceeds, following up on missing payments, etc.

27. The total lodestar for Righetti Glugoski is \$337,605.00. The lodestar breakdown for the law firm is as follows: Matthew Righetti - \$132,120 and John Glugoski - \$205,485. The amount of time spent on this case is reasonable given the complexity and novelty of the issues involved, the vigorous defense provided by the Wilson Elser Moskowitz Edelman & Dicker LLP firm, the length and intensity of the litigation, and the results obtained. Since its inception, Plaintiffs faced a phalanx

1 of defenses as outlined in Defendant's Answer. Class Counsel litigated this action with skill and
2 efficiency reflecting the amount of work required to achieve the settlement. Once the settlement was
3 consummated our work has not stopped. We continue to field inquiries from Class Members about the
4 status of the case and their participation in the settlement. We also expect to work closely with the
5 court appointed notice administrator to assure that notice is provided consistent with this Court's
6 orders and due process. We intend to promptly respond to all Class Member inquiries and we intend
7 to continue our work until all responsibilities are discharged and all funds are dispersed.

8 28. I have reviewed the time and cost summaries submitted to the Court in the
9 declarations of Mr. Nathan and Mr. Glugoski. I attest to the amount of work performed by our two
10 firms as well as the high quality of work and professional standards for both our firms. The work
11 they performed was necessary to achieved a successful outcome and was not duplicative of the
12 work performed by the Righetti Glugoski firm.

13 **COUNSEL'S COSTS**

14 29. Righetti Glugoski, P.C. incurred \$14,591.91 in costs. The costs incurred were both
15 necessary and reasonable in litigating this matter. The costs incurred are for case filing fees,
16 case administration and service of process costs. A true and correct copy of the breakdown of the
17 costs reasonably incurred by the Righetti Glugoski, P.C. firm in this case is marked and attached
18 to the Declaration of John Glugoski as Exhibit 1.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct. Executed this 5th day of August, 2026 at San Francisco, CA.

21 **RIGHETTI GLUGOSKI, P.C.**

22 
23 _____
24 Matthew Righetti
25 Attorneys for Plaintiff
26
27
28

EXHIBIT 1

Andrew J. Prizler v. Charter Communications, Inc
Rate Sheet

<u>TK ID</u>	<u>Timekeeper</u>	<u>Title</u>	<u>2018 Standard</u> <u>Rate</u>	<u>2018 Billing</u> <u>Rate</u>	<u>2019 Standard</u> <u>Rate</u>	<u>2019 Billing</u> <u>Rate</u>
02943	Allen, Margaret H.	Partner	950	831	1,000	850
60970	Fischer, Max C.	Partner	925	809	975	829
43800	Lazerson, Wendy M.	Partner	950	831	975	829
12149	Roberts, Katherine A.	Partner	875	766	925	786
13696	Chao, Wesley	Associate	495	433	540	459
11257	Gonzalez, Anahi	Associate	495	433	540	459
14968	Hong, Alison H.	Associate	835	731	890	757
03043	Limbrick, Tiffanie N.	Associate	785	687	870	740
03170	Mackay, Aimee G.	Associate	860	753	905	769
10517	McDonough, Megan	Associate	495	433	635	540
19461	Miner, Katharine M.	Associate	495	433	635	540
03084	Wyson, Natali	Associate	785	687	870	740
95711	Brown, Denise D.	Paralegal	390	341	415	353
17840	L'Hoste, April K.	Paralegal	350	306	370	315
84271	O'Connell, Kathleen M.	Paralegal	360	315	380	323