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7 Attorneys for Plaintiff ANJOLIE TATE
8 on behalf of the State of California,
9 and others similarly situated and aggrieved

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**

13 ANJOLIE TATE on behalf of the State of
California, and others similarly situated and
14 aggrieved,

15 Plaintiff,

16 v.

17
18 CASPER SLEEP, INC., a Delaware
Corporation; and DOES 1-100, inclusive,

19
20 Defendants.

Case No.: 23CV031523

**DECLARATION OF BRANDON
BROUILLETTE IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND REQUEST
FOR ATTORNEY'S FEES AND COSTS**

Date: June 2, 2025

Time: 1:30 p.m.

Dept.: 20

1 I, BRANDON BROUILLETTE, declare as follows:

2 1. I am an attorney duly licensed to practice in California and before this Court, and I
3 am a partner with Crosner Legal, PC, counsel of record for Plaintiff in the above-captioned matter.
4 If called to testify as to the facts within, I would and could competently do so.

5 **BACKGROUND**

6 2. Defendant Casper is a retailer of sleep products both online and in retail locations.
7 Casper sells its products through hundreds of retailers nationwide, including twelve direct retail
8 locations in California. Plaintiff Anjolie Tate worked for Casper from approximately April, 2021
9 to about April, 2022, as a full-time, non- exempt, hourly employee. Plaintiff worked as an
10 assistant manager in two of Casper's retail locations in Los Angeles and Torrance.

11 3. Based on these allegations, and after exhausting administrative remedies with the
12 Labor & Workforce Development Agency ("LWDA"), on April 23, 2023 Plaintiff filed a PAGA-
13 only complaint against Defendant seeking civil penalties for alleged Labor Code violations
14 including : (1) failure to pay all wages due, including minimum and overtime wages (2) failure to
15 provide all required meal and rest breaks or compensation in lieu thereof; (3) failure to reimburse
16 business expenses, (4) failure to provide accurate, itemized wage statements; and (4) failure to pay
17 all wages due upon termination of employment.

18 4. Casper Sleep has at all times denied Plaintiff's allegations and maintained its meal
19 and rest break and payroll policies and procedures comply with California law, that it paid
20 employees all wages due at the correct hourly rates, and provided them with required meal and
21 rest breaks or paid the required compensation for any documented meal/rest violations. Defendant
22 also contends there would be no need for any class member to use their own phone on company
23 business and therefore no reimbursement is owed. Additionally, Casper Sleep strongly contends
24 the case cannot be maintained as a representative action, arguing for example that to the extent
25 class members missed meal and/or rest breaks, or that such breaks were non-compliant, it was
26 intermittent and infrequent and evidence of such missed breaks would be anecdotal, and therefore
27 individualized issues would predominate.

28 5. After Plaintiff filed her complaint, the Parties engaged in initial discovery and, after

1 meeting and conferring regarding discovery, law and motion, and other case management issues, agreed to
2 attempt mediation. The Parties also agreed on a protocol for an exchange of substantial documents and
3 information before the mediation to facilitate the settlement discussions. Consequently, Plaintiff's counsel
4 reviewed payroll records, compensation plans, personnel policies/handbooks, personnel files, and a random
5 of sampling of Class Member paystubs and time records. Defendant also provided data regarding the total
6 number of putative class members, the estimated total amount of workweeks and pay periods they worked,
7 and average pay rates, among other relevant data.

8 6. The Parties then engaged Steve Cerveris, Esq., a respected professional neutral with
9 substantial wage and hour and class action experience and, in May 2024, the Parties participated in a full
10 day mediation with Mr. Cerveris. Throughout the day, the arms-length negotiations were hard-fought and
11 adversarial as the Parties exchanged extensive information on their legal and factual positions, and made
12 numerous offers and counter-offers. With the mediator's assistance, the Parties were able to reach
13 agreement on all major issues.

14 **THE PROPOSED SETTLEMENT TERMS**

15 7. Under the settlement, Casper Sleep will pay \$295,000 into a common fund, the
16 Gross Settlement Amount ("GSA"). Attorney's fees of up to \$98,333.33 (1/3 of the GSA),
17 litigation costs of up to \$12,500 (only \$11,339.61), settlement administration costs of \$7,500, a
18 service award to Plaintiff of no more than \$10,000, and PAGA civil penalties in the amount of
19 \$40,000, all will be paid from the GSA. The balance of around \$127,827 will be allocated pro rata
20 to the Class Members based on their weeks worked during the Class Period. No portion of the
21 GSA will revert to Casper Sleep.

22 8. As noted, the settlement obligates Casper Sleep to pay \$295,000 to resolve the
23 Settlement Class's claims, inclusive of attorney's fees and costs. At least \$127,827 from the GSA
24 will be distributed to the Participating Class Members. This is a cash settlement that does not require
25 Participating Class Members to submit a claim form to receive their settlement share. Participating
26 Class Members will receive their settlement checks automatically via First Class U.S. Mail. Twenty
27 percent of each settlement share will be allocated to wages and the remaining eighty percent will be
28 allocated to expenses, penalties and interest, which allocation is consistent with Casper Sleep's

1 potential liability. Casper Sleep will pay any and all applicable employer-side payroll taxes
2 separately and in addition to the GSA. Subject to the Court's approval, any amounts not claimed
3 (because a class member does not cash their settlement check) will be forwarded to the East Bay
4 Community Law Center as the proposed *cy pres* beneficiary.

5 9. Each Participating Class Member will receive a share of the Net Settlement Amount
6 based on his or her total weeks worked in California as a Casper Sleep travel nurse during the Class
7 Period while employed in one of the specified positions. Thus, each Class Member's Individual
8 Settlement Payment will be calculated using criteria typically used in determining appropriate
9 amounts of unpaid wages, unpaid premium wages for missed meal and rest breaks, unreimbursed
10 expenses, and potential statutory penalties under applicable law. These methods are intended to
11 ensure each Class Member receives a settlement award corresponding to the relative value of their
12 potential claims. The proposed allocation provides a reasonable way to compensate Class Members
13 based on the amount of time they worked for Casper Sleep in California and the amount unpaid
14 overtime, the number of missed meal breaks and/or rest breaks, etc.

15 10. All Participating Class Members will release Casper Sleep from all claims alleged
16 in the operative complaint, or that could have been brought based on the factual allegations in the
17 complaint during the Class Period, including PAGA claims for the PAGA Period. The release is
18 limited to the claims that were actually pleaded or could have been pleaded based on the alleged
19 facts in the complaint.

20 11. As noted, the Parties allocated \$40,000 of the GSA to alleged civil penalties under
21 PAGA, and Plaintiff requests the Court approve that amount as fair, reasonable, and adequate, and
22 consistent with PAGA's underlying purposes. As required by Labor Code section 2699(l)(2), My
23 office submitted the Settlement Agreement and this motion to the LWDA via its online portal, and
24 as reflected on the accompany proof of service. Attached hereto as Exhibit 1 is a true and correct
25 copy of the LWDA's acknowledgement of receipt.

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The Proposed Settlement Meets the Dunk and Kullar Factors, is within the Range of Reasonableness, and Merits Final Approval

12. Prior to mediation, the Parties engaged in both formal and informal discovery to facilitate settlement discussions. Plaintiff reviewed documents and information regarding Casper Sleep's payroll practices, a random sampling of pay stubs and time records from class members, a class list, applicable compensation plans and expense reimbursement plans, meal and rest break policies, arbitration agreements, etc., and information from Defendant regarding class size and breakdown, work weeks/pay periods, rates of pay, and other information used to formulate a damages model with the assistance of a consulting expert. Plaintiff's counsel are confident they obtained sufficient information to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is fair and reasonable. Through the information exchanged and analysis undertaken, Plaintiff weighed the risks of continued litigation against the benefits of the proposed settlement and determined settlement to be the most reasonable option.

13. Using that data, Plaintiff ran various calculations and estimated Defendant's total class-wide liability at about \$1,333,000, including about \$12,000 in unpaid wages on the regular rate issue, \$66,000 on the meal break claims, \$508,000 on the rest break claims, \$24,000 on the expense reimbursement claim, \$246,000 on the wage statement claim, and about \$477,000 in waiting time penalties.

14. First, on the unpaid wage claims, Plaintiff first contends Casper failed to correctly calculate the class members "regular rate of pay" by failing to incorporate all required forms of compensation, such as commissions and bonuses, into the calculation. Here, Plaintiff alleges that since Casper failed to correctly calculate the regular rate it would up undercompensating employees for overtime, sick time, and break premiums. In response, Defendant argued that its overtime pay policies fully compensated the class members, and further argued there was very little in the way of applicable bonus pay that would even trigger an obligation calculate the regular rate.

15. On the meal break claims, Plaintiff focused primarily on Defendant's alleged failure to maintain a California-compliant break policy and to provide Plaintiff and the class members with

1 all required meal periods, particularly for second meal periods on shifts lasting longer than 10 hours.
2 In fact, Plaintiff's expert's review of the records provided by Defendant suggests that some 45% of
3 pay periods contained at least one unique meal period violation (i.e., missed, late, or short), and that
4 over 90% of shifts of 10+ hours failed to reflect a second meal period.

5 16. Defendant countered that in many instances actually took their meal break (including
6 second meal breaks) even if not reflected on the time sheets and, accordingly, class certification is
7 not appropriate because individual inquiries would be necessary to determine this question. For the
8 same reasons, Defendant contended the claim would fail on the merits because it would be difficult
9 for Plaintiff to show Defendant's actual or constructive knowledge that a particular class member
10 worked through a specific lunch period. Defendant also contended it maintained a fully-compliant
11 meal break policy at all times, and it always provided the class members with the opportunity to
12 take meal breaks and thus met the requirements imposed by California law. Per Defendant, if
13 individuals did not take a meal period, it was in violation of company policy and, once again, a
14 multitude of individual inquiries would be necessary to determine if an individual may have missed
15 a meal break by personal choice or for some other reason. Defendant further contends that it
16 regularly and consistently paid premium payments for non-compliant meal breaks. Indeed,
17 Defendant's expert's review of its time records indicated a markedly lower meal period "violation
18 rate" (i.e., missed, late, or short) than Plaintiff's expert analysis.

19 17. On the rest break claim, Plaintiff claimed Defendant's written policy failed to inform
20 employees that rest breaks had to be for a net 10 minutes to be compliant, which failure directly
21 impacted Class Member rest breaks. Defendant countered it maintained a fully-compliant rest break
22 policy at all times, and it always provided the class members with the opportunity to take breaks
23 and thus met the requirements imposed by California law. Defendant further contended that it is
24 only liable if Plaintiff can prove, on a shift-by-shift basis, that Class Members actually did not take
25 a fully-compliant rest break based on Plaintiff's theory of liability advanced above. This arguably
26 would have made class certification more difficult and/or rendered trial unmanageable.

27 18. The claims for unreimbursed business expenses under Labor Code § 2802 revolved
28 around Plaintiff's allegations that Casper Sleep required its non-exempt employees to use their

1 personal cell phones for business purposes including communicating with supervisors and co-
2 workers, all without reimbursement for these business expenses. In response, Defendant argued
3 there was no need for employee's to use personal phones for legitimate work purposes, and that any
4 such use would have been purely for personal convenience. Thus, per Casper Sleep, use of personal
5 phones wasn't necessary and therefore not reimbursable.

6 19. Plaintiff's claims for penalties under Labor Code §§ 203 and 226 are derivative of
7 the underlying unpaid minimum and overtime wage and meal/rest break claims and, accordingly,
8 they would essentially rise or fall with Plaintiff's success or failure on her primary claims. Further,
9 Plaintiff had to account for the discretionary nature of such awards and the "good faith" and other
10 defenses available to Defendant. For instance, as to Section 203 waiting time penalties, Defendant
11 first noted that many class members were not "terminated" but rather moved on from one contract
12 to the next and accordingly would not be entitled to such penalties. Defendant also raised a good
13 faith defense to the waiting time penalties as it applies to both meal/rest periods and underpaid
14 overtime premium.

15 20. As far as potential PAGA liability, the alleged aggrieved employees theoretically are
16 entitled to penalties totaling about \$1,150,000 should Plaintiff prevail on all claims, establish
17 violations of the multiple Labor Code sections at issue, and secure the maximum penalty on all
18 issues. As with the class claims, Plaintiff discounted the potential PAGA penalties based on
19 Defendant's various defenses on the merits and also accounted for the Court's wide discretion to
20 reduce such penalties, or to decline to award penalties at all. Accordingly, the Parties allocated
21 \$40,000 to PAGA penalties. Plaintiff submits this amount is reasonable under the circumstances
22 and in line with comparable settlements in other wage and hour class actions in California.
23 Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement,
24 and will be able to weigh in as necessary.

25 21. Overall, Defendants raised various defenses to Plaintiff's claims on both class
26 certification and the merits that, if successful, could have negatively impacted Plaintiff's claims or
27 potentially reduced potential damages. Accordingly, Plaintiff faced significant risks going forward
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1 with this litigation, and given the need to secure and maintain class certification, prevail at trial,
2 and deal with post-trial appeals, it would have taken years to realize any recovery in this action.

3 22. The settlement obviates the significant risk that this Court may find any kind of
4 class resolution unachievable or might deny certification of all or some of Plaintiff's claims.
5 Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued
6 litigation would be expensive as the parties pursued merits discovery, a probable motion to
7 decertify, as well as trial and possible appeals, and would substantially delay any recovery by the
8 class with no assurance of recovering significantly more than the proposed settlement. Overall,
9 while Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each
10 cause of action. Plaintiff also recognizes proving the amount of wages and penalties due each
11 Class Member would be an expensive and uncertain proposition.

12 23. Plaintiff and I discounted the value of the class claims consistent with the risks
13 discussed above, and carefully weighed the likelihood of the class receiving substantially greater
14 benefit if the litigation continued. We concluded – in light of these very real and substantial risks –
15 settlement on the proposed terms and without prolonged and costly litigation was in the best
16 interests of the class. The overall \$295,000 recovery represents a significant percentage of
17 Defendants' potential exposure and, given the multiple litigation risks addressed above, a total
18 recovery for the class of \$295,000 with an average award of some \$906 per class member, is a fair
19 result within the range of reasonableness considering all potential outcomes.

20 **PLAINTIFF'S ENHANCEMENT AWARD**

21 24. The service payment provided to Plaintiff as the class representatives is typical in
22 class action cases and reasonable. She devoted time and resources to the litigation, provided
23 documents, assisted Class Counsel with investigating the claims asserted and in preparing for
24 mediation. The proposed \$10,000.00 enhancement is reasonable in recognition of her time spent on
25 this matter, the risks she undertook on behalf of the class, and the benefit conferred to the class, as
26 addressed in her declaration filed at preliminary approval.

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1 Settlement Administrator and settlement class members; (13) drafting the motion for final
2 approval and motion for attorney's fees, and attending the final approval hearing; and (14)
3 extensive communications with the Plaintiff regarding case status, case investigation and
4 document review, mediation, and settlement terms. Attached hereto as Exhibit 2 is a true and
5 correct summary of Crosner Legal's work performed and time expended on this matter.
6 Additionally, we will incur additional time to attend the final approval hearing and following final
7 approval to, inter alia, respond to class member inquiries, work with the Settlement Administrator
8 on the distribution of settlement funds, and on the compliance hearing

9 28. I am a graduate of Loyola Law School, Los Angeles, from which I received a *juris*
10 *doctorate* degree in 2009. Prior to attending law school, I attended the University of Southern
11 California, from which I received a *bachelors of science* in Business Administration in 2006.

12 29. I have been a Partner at Crosner Legal since February 1, 2023. Prior to joining
13 Crosner Legal, I was a Senior Associate and Team Director of a Wage and Hour Litigation Team
14 at Capstone Law APC, which I originally joined as an associate attorney in May 2016.

15 30. Since being admitted to the California State Bar in 2010, my entire legal career has
16 been dedicated to protecting employee and consumer rights through the prosecution of class action
17 and representative actions filed on behalf of plaintiffs in class actions and statewide representative
18 actions. Throughout my career I have managed or co-managed more than 100 class action and
19 PAGA representative cases, from initial filing of the complaint through final resolution.

20 31. In particular, I have served as class counsel in several certified class action cases,
21 including:

- 22 a. *Party City Wage and Hour Cases*, JCCP4781 (class counsel for certified class of non-
23 exempt hourly employees who worked for Defendants in California)
- 24 b. *Lewis v. Express Messenger Systems*, Los Angeles Superior Court Case No. BC501521
25 (class counsel for certified class of last-mile delivery drivers who were alleged to be
26 misclassified as independent contractors)
- 27 c. *Ramirez-Vivar v. Grifols Diagnostic Solutions, Inc., et al.*, Alameda County Superior
28 Court, Case No. RG21099519 (class counsel for certified classes of non-exempt hourly

employees who worked for Defendants in California)

- d. *Jones v. LA Live*, Los Angeles County Case No. BC687908 (class counsel for certified issue classes consisting of hourly employees who worked at Staples Center and Nokia Theater)

32. The following is a representative sample of settlements in wage and hour class action and PAGA representative cases in which I was listed as an attorney of record and either managed, or co-managed with attorneys at my firm and other co-counsel:

- e. *Cruz v. Walmart*, Los Angeles County Super. Ct. Case No. 18STCV03128 (\$15 million global PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations.)
- f. *Vorise v. 24 Hour Fitness USA, Inc.*, Contra Costa County Super. Ct., Case No. C 15-02051 (\$11 million global PAGA settlement on behalf of over 36,000 employees for Labor Code violations.)
- g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone (\$4.75 million class and PAGA settlement on behalf of class of non-hourly employees for Labor Code violations.)
- h. *Campbell v. AEG* (\$1.8M class and PAGA settlement on behalf of group of hourly employees who worked at concert venues in California for alleged Labor Code violations)
- i. *Fiebelkorn v. AEG*, et al. Los Angeles Superior Court Case No. BC717337 (\$1.75M class settlement on behalf of group of hourly employees who worked at Oakland Coliseum for alleged Labor Code violations)
- j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No. 30-2017-00917542 (\$2,212,500 class and PAGA settlement on behalf of group of hourly employees who worked at Honda center in Anaheim California for alleged Labor Code violations)
- k. *Espindola v. Panda Express*, San Bernardino Superior Court Case No. CIVDS1931455 (\$3.125M class and PAGA settlement on behalf of hourly employees statewide for

1 alleged Labor Code violations)

- 2 1. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-CU-
3 OE-NC (\$2.25M class and PAGA settlement on behalf of hourly employees statewide
4 for alleged Labor Code violations)
- 5 m. *Party City Wage and Hour Cases*, JCCP4781 (\$6.5M class and PAGA settlement on
6 behalf of hourly employees statewide for alleged Labor Code violations)
- 7 n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No.
8 BC501521 (\$10.5M class and PAGA settlement on behalf of a statewide group of
9 independent contractor last-mile delivery drivers alleged to be misclassified)
- 10 o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 (\$4M class
11 and PAGA settlement on behalf of statewide group of hourly employees for alleged
12 Labor Code violations)
- 13 p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983 (\$2M
14 class and PAGA settlement on behalf of statewide group of hourly employees who
15 worked at retail stores in California for alleged Labor Code violations)
- 16 q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-2021-
17 00301530 (\$1.8M class and PAGA settlement on behalf of statewide group of hourly
18 employees who worked at Defendant's McDonald's franchises in California for alleged
19 Labor Code violations).
- 20 r. *Suhartono v. RRG Besh*, Los Angeles County Superior Court Case No. 19STCV22184
21 (\$2.25 class and PAGA settlement on behalf of statewide group of hourly employees
22 who worked at Defendant's McDonald's franchises in California for alleged Labor
23 Code violations).
- 24 s. *Gomes v. Kura Sushi*, Los Angeles County Superior Court Case No. 19STCV18977
25 (\$1.75M class and PAGA settlement on behalf of statewide group of hourly employees
26 who worked at Defendant's restaurants in California for alleged Labor Code violations)
- 27 t. *Saldana v. Hydrochem*, Contra Costa Superior Court Case No. CIVMSC19-02624
28 (\$1.38M class and PAGA settlement on behalf of statewide group of hourly employees

1 for alleged Labor Code violations).

2 33. In addition, below are settlements in consumer class action cases in which I was
3 listed as an attorney of record and either managed, or co-managed with attorneys at my firm:

4 u. *Lopez v. Seterus, et al.*, Los Angeles Superior Court Case No. BC484297 (\$3M Class
5 settlement on half of thousands of borrowers in California, Florida, and Texas for UCL
6 violations premised on improper late fee collections)

7 v. *McGill v. Citibank*, Riverside County Superior Court Case No. RIC 1109398 (in
8 landmark case that established the ‘McGill rule’ precluding the waiver of public
9 injunctive relief in pre-dispute arbitration agreements, negotiated confidential
10 settlement on behalf of consumer who sued for damages and class injunctive relief
11 stemming from marketing of credit protector plan)

12 34. Finally, I have been selected by my peers as a Super Lawyers ‘Rising Star’ every
13 year since 2016 through 2022, which is a recognition that is provided to only 2.5% of active lawyers
14 practicing within the State of California

15 35. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has
16 some 14 years of experience as a practicing attorney, all of which have focused on litigation of
17 employment, labor law, consumer, and class action claims. Following graduation, he
18 immediately began working for a nationally recognized plaintiff’s complex litigation firm,
19 CaseyGerry, where he had the fortune of working directly with past presidents of the consumer
20 attorneys and recipients of trial attorneys of the year awards. He also worked for former
21 CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole
22 associate attorney. During his tenure at these firms, he focused on advocating for the rights of
23 consumers and employees in class action litigation, civil rights and employment litigation,
24 catastrophic injuries, insurance bad faith and appellate litigation.

25 36. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its
26 inception has focused almost exclusively on wage and hour class actions and other labor and
27 employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his
28 practice is dedicated exclusively to the prosecution of wage and hour class actions, and Crosner

1 Legal is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty
2 (50) wage and hour class actions and/or PAGA representative actions in both federal and state
3 courts throughout California.

4 37. Mr. Crosner currently is an executive board member of the Wage and Hour
5 Committee and the Legislative Committee for the California Employment Lawyers Association;
6 a member of the Grassroots Advocacy Team for the National Employment Lawyers Association;
7 Wage and Hour Committee member and Class Action Committee member for the National Trial
8 Lawyers; a member of the American Association for Justice; and member of the Pound Civil
9 Justice Institute. He was selected for 2018-20 by Super Lawyers as a “Southern California
10 Rising Star” for employment and labor law.

11 38. Kiara Bramasco received her undergraduate degree, magna cum laude, from
12 Loyola Marymount University in Political Science, and then received her JD from Loyola Law
13 School in 2018. She then spent several years with well-known plaintiff’s firm Moss Bollinger,
14 first as a law clerk and then as an associate, where her practice focused on employment law,
15 particularly wage and hour class action and PAGA litigation. She joined Crosner Legal in 2021.

16 39. J. Kirk Donnelly is a 1989 graduate of the College of William and Mary, and a
17 1995 graduate *cum laude* of the University of San Diego School of Law, where he was selected to
18 the Order of the Coif and the Order of Barristers. Prior to 2003, he was a litigation associate with
19 Ross Dixon & Bell, LLP (now Troutman Pepper Locke LLP), in Orange County, California,
20 where his practice focused on complex business, employment, and insurance coverage disputes.
21 In 2003, he became associated with Dostart Clapp & Coveney, LLP, then one of the premiere
22 plaintiffs’ wage and hour class action firms in California. In 2008, he founded the Law Offices of
23 J. Kirk Donnelly, APC and, in January 2019, also became Of Counsel to Crosner Legal, P.C.
24 Since 2003, his practice has focused on representing plaintiffs in wage and hour and consumer law
25 matters, including both class actions and individual matters. He has served as class/lead counsel
26 in over 50 wage and hour class and PAGA actions.

27 40. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
28 action settlements while serving as lead class counsel in recent years, including but not limited to a

1 \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
2 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
3 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
4 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
5 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
6 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
7 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
8 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
9 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
10 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a \$1.15
11 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case No.
12 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action settlement in 2020
13 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753 (Santa Clara Cty.
14 Super Ct.); a \$2.2 million wage and hour class action settlement in 2021 (*Ghorchian, et al. v. West*
15 *Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a \$2.85 million dollar
16 wage and hour settlement in 2021 (*Valencia v. The Original Mowbray's Tree Service, Inc.*, Case
17 No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1 million wage and hour class action
18 settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super.
19 Ct.)), a \$1.4 million wage and hour class action settlement in 2023 in *Correa, et al. v. FedEx*
20 *Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino Cty. Super. Ct.)), a \$2.38 million
21 wage and hour class action settlement in 2023 in *Michel, et al. v. Valley Thrift Store, Inc.*, Case
22 No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million wage and hour class action
23 settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No. CIVDS1931464 (San Bernardino
24 Cty. Super. Ct.); \$1.015 million wage and hour class action settlement in 2023 in *Gotishan v. Kyo*
25 *Autism Therapy*, Case No. CGC-21-596378 (San Francisco Cty. Super. Ct.); and a \$1.15 million
26 wage and hour PAGA settlement in 2023 in *Vaughn v. Public Health Foundation Enters., Inc.*,
27 Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a \$1.5 million wage and hour class action
28 settlement in *McKinnie v. Iron Mountain*, Case No. 21STCV05707 (Los Angeles Cty. Super.

1 Court); a \$1.3 million wage and hour class action settlement in *Ellsworth, et al. v. Hallcon*, Case
2 No. 20STCV06618 (Los Angeles Cty. Super. Court); a \$1.925 million wage and hour class
3 settlement in 224 in *Lo v. Cyberpower, Inc.*, Case No. 21STCV31479 (Los Angeles Cty. Super.
4 Ct); and a \$1.19 million dollar wage and hour class action settlement in 2024 in *Herrera v.*
5 *Signature Flight Support LLC*, Case No. 22STCV18367 (Los Angeles Cty. Super. Ct.).

6 41. Based upon the qualifications and experience set forth above, the following hourly
7 rates are reasonable for attorneys practicing in this area of the law in California: Zachary M.
8 Crosner \$800/hour, Brandon Brouillette, \$750/hour, Kiara Bramasco \$650/hour, and J. Kirk
9 Donnelly \$900/hour.

10 42. Plaintiff requests the Court apply the above hourly billing rates in this case, as these
11 rates are reasonable in the California legal market for attorneys handling wage and hour class
12 actions. I have personal knowledge of the hourly rates charged by a number of plaintiff-side wage
13 and hour class action firms in the Bay Area, Los Angeles and San Diego markets, for partner-level
14 attorneys with experience comparable to mine and to that of my colleagues. These rates have
15 range from \$650 to \$850 per hour for calendar years 2017-2021. Some examples include attorney
16 Matthew Matern of Matern Law Group in Los Angeles, with approximately 26 years of
17 experience \$850/hour (2018); Craig Ackermann of Ackermann & Tilajef, PC with approximately
18 25 years of experience \$850/hour (2021), Michael Malk of Malk APC in Los Angeles, with
19 approximately 16 years of experience \$650/hour (2018), Michael Singer and Isam Khoury of
20 Cohelan Khoury & Singer in San Diego, 35 years and 45 years of experience respectively, both
21 \$825/hour (2018), Jason Ehrlich of McCormack & Ehrlich LLP in San Francisco, with
22 approximately 17 years of experience \$750/hour (2017), and James Kawahito of Kawahito Law
23 Group in Los Angeles, with approximately 16 years of experience \$750/hour (2020).

24 43. The requested rates also comport with the adjusted Laffey Matrix, which provides
25 that reasonable hourly rates for attorneys with 10+ years of experience, such as Messrs. Crosner
26 and Brouillette is over \$800/hour, and rates for attorneys with 20+ years of experience such as Mr.
27 Donnelly are over \$1,000/hour. The adjusted Laffey Matrix may be found at
28 <http://www.laffeymatrix.com/see.html>. Similarly, the December 8, 2008 article, "Billable Hours

1 Aren't the Only Game in Town Anymore," NATIONAL LAW JOURNAL, which set forth the
2 following hourly billing rates as reported by Sheppard, Mullin, Richter & Hampton, a leading firm
3 in the defense of wage-and-hour class actions that I have opposed when litigating wage-and-hour
4 class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335,
5 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th Year - \$455.36

6 44. After the analysis above, Crosner Legal's lodestar is \$90,965, based on 119.7
7 attorney hours spent litigating this case through the filing of this motion. Further, we will almost
8 certainly spend additional time addressing providing supplemental briefing prior to the hearing,
9 addressing settlement administration matters, responding to class member questions, etc.

10 45. As noted, Crosner Legal has represented Plaintiff for some two plus years with
11 respect to this matter and has expended a significant amount of time and resources in that
12 representation. The firm agreed to litigate this case on a purely contingent basis and in so doing
13 assumed considerable risk of non-payment for its fees and costs, as discussed above, and as is the
14 case with these cases in general. Under all relevant factors (as outlined herein and in the
15 accompanying memorandum), Plaintiff respectfully requests the Court award her counsel the
16 requested fees of \$98,333.33 based on the common fund theory with a corresponding lodestar
17 cross-check and a modest 1.08 upward modifier.

18 46. This case posed considerable contingent risk, for the reasons addressed above; if
19 there had been recovery then Crosner Legal would not have received any fees for the time invested
20 litigating the case. Throughout the pendency of this case, the firm has received no compensation
21 or reimbursement for its efforts representing Plaintiff and the Class.

22 47. Crosner Legal assumes a great deal of contingent risk in every wage and hour class
23 action it undertakes. Attorneys at my firm have been involved in a number of cases where
24 plaintiffs and their counsel invested hundreds of hours to time and tens of thousands in costs with
25 no return. For example, in a matter alleging misclassification on behalf of a putative class of
26 assistant managers at major restaurant chain, after three years of exceptionally adversarial
27 litigation and the investment of over 1,000 hours of attorney time and over \$100,000 in costs, the
28 trial court denied plaintiffs' motion for class certification. In another misclassification case on

1 behalf of assistant managers at large restaurant chain, the parties reached a settlement after three
2 years of litigation, secured preliminary approval and completed the notice process to the
3 settlement class, only to have the defendant file for bankruptcy a few days before the final
4 approval hearing. Lastly, in a matter against a large regional bank seeking expense reimbursement
5 of behalf of outside salespersons, after more than a year of combative litigation and shortly before
6 plaintiff's class certification motion was due, the defendant was taken over by federal regulators.
7 In each of these instances the plaintiff's firm received nothing despite the investment of hundreds
8 of hours of attorney time and thousands of dollars in out-of-pocket costs.

9 48. Class Counsel's litigation costs and expenses are capped at \$12,500 under the terms
10 of Settlement Agreement. A true and correct itemization of the costs and expenses incurred by my
11 firm is set forth below:

Expense Category	Amount
Court Filing Fees/ Service of Process/Attorney Service	\$2,032.10
Mediation Fees	\$7,500.00
Expert Witness Fees	\$1,620.00
PAGA Filing Fee	\$75.00
Postage/Delivery	\$112.51
Photocopying	(waived)
Legal Research	(waived)
Total Costs and Expenses	\$11,339.61

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20 49. I therefore respectfully request the Court approve payment of \$11,339.61 in
21 litigation costs and expenses to my firm.

22 50. For all the foregoing reasons, I respectfully request that the Court approve the
23 settlement in all particulars.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed this 7th day of May 2025, at Los Angeles, California.

26
27 
28 _____
Declarant

EXHIBIT

1

EXHIBIT

2

Tate v. Casper Mattress
(Alameda County Superior Court Case No. 23CV031523)

Crosner Legal Time Report

Tasks	Zachary Crosner	Brandon Brouillette	Kiara Bramasco	J. Kirk Donnelly
Pre-filing Case Investigation	3.3	0.0	5.4	0.0
Pleadings and Law and Motion	3.7	2.0	6.9	9.8
Discovery and Post-Filing Investigation	2.1	4.4	0.0	0.0
Court Appearances	0.0	0.0	0.0	0.0
Case Management; Litigation Strategy & Analysis	5.4	24.9	0.0	1.0
Mediation and Settlement	2.3	48.5	0.0	0.0
Total Hours	16.8	79.8	12.3	10.8
Hourly Rate	\$800	\$750	\$650	\$900
Lodestar	\$13,400.00	\$59,850.00	\$7,995.00	\$9,720.00

Total Hours: 119.7
Total Lodestar: \$90,965.00