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Attorneys for Plaintiffs COREY J. DEVINE,
and JERMAINE WILLIS, individually, and
on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TUOLUMNE

ANDREA OTANEZ VERDUGO, individually, and
on behalf of others similarly situated

Plaintiff,

v.

CAPSTONE LOGISTICS, LLC, a Delaware
Limited Liability Company with its principal place
of business in Georgia; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: CV66120

[Assigned for all purposes to Dept. 5]

UNLIMITED CIVIL

**DECLARATION OF TARAS KICK IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
PAGA ACTION SETTLEMENT**

Date: November 12, 2025

Time: 8:30 a.m.

Dept.: 5

Action Filed: April 22, 2024

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2. I have been a member of the California State Bar since 1989, the year I graduated from the University of Pennsylvania Law School. Prior to that, in 1986, I graduated from Swarthmore College, from which I earned a Bachelor of Arts degree in Economics and Psychology. I have served as class counsel in numerous national and California state class actions, including being appointed lead counsel and a member of plaintiffs' executive committees. From 2012 to September 2017, I was a Commissioner of the California Law Revision Commission, an independent state agency created by statute in 1953 to assist the Legislature and Governor by examining California law and recommending needed reforms, having been appointed by Governor Edmund G. Brown Jr. in 2012, and was Chairperson of the Commission from September 2015 through September 2016 (although my role in this case is independent of any aspect of my duties with the Commission and does not reflect one way or the other any positions of the Commission). For over five years, I was a member of the national Board of Directors of Public Justice, including its Class Action Preservation Committee. I am or have been a member of numerous other committees pertaining to consumer class actions, including the American Association for Justice Class Action Litigation Sub-Group; the Consumer Attorneys of California Class Action Group; the American Bar Association Committee on Class Actions & Derivative Suits; and, the State Bar of California Antitrust and Unfair Competition Litigation section.

3. Regarding the other attorneys at The Kick Law Firm, APC (“TKLF”) who worked on this matter, they include attorney Tyler Dosaj, attorney Greg Taylor, and attorney Nick Rosenthal. Mr. Dosaj graduated *cum laude* from Harvard Law School in 2015, where he received the Dean’s Scholar Prize, and was admitted to the California Bar in 2015. He graduated *summa cum laude* with a B.A. in English from UCLA in 2011. Mr. Greg Taylor is a 2016 graduate of UCLA School of Law, where he was a Dean’s merit scholarship recipient and a member of the UCLA Entertainment Law Review. He represented plaintiffs in employment actions for approximately

1 five years before joining TKLF in 2022. Attorney Nick Rosenthal also worked on this matter while
2 he was employed by The Kick Law Firm, APC from about March 2024 until about March 2025,
3 at which time he opened his own office.

4 4. The Kick Law Firm, APC, primarily represents plaintiffs in class actions. The class
5 action cases in which I have been appointed either as lead counsel, or as co-lead counsel, include
6 the following: *Hall v. FedEx Ground Package System, Inc.*, No. 19STCV26934, Los Angeles
7 Superior Court (wage and hour class action, final approval granted March 11, 2025); *Martyniuk v.*
8 *USKO Express, Inc.*, LASC Case No. 20STCV07379 (wage and hour class action, final approval
9 granted June 29, 2023); *Torres, et al. v. Monetary Management of California, Inc.*, LASC Case
10 No. 21STCV09917 (wage and hour class action, final approval granted June 30, 2023); *Lizarraga*
11 *v. Digby Southwest, Inc.*, LASC Case No. 19STCV27901 (wage and hour class action, final
12 approval granted November 13, 2023); *Mitchel, et al. v. Pacific Investment & Management, Inc.*,
13 *et al.* (wage and hour class action, final approval granted June 2, 2023); *Ruiz, et al. v. Trans*
14 *International Trucking, Inc.*, LASC Case No. 20STCV03790 (wage and hour class action, final
15 approval granted April 11, 2023); *Yarian v. All Freight Carriers, Inc., et al.*, LASC Case No.
16 19STCV28735 (wage and hour class action, final approval granted March 7, 2023); *Polar v.*
17 *Button Transportation, Inc., et al.*, Los Angeles County Superior Court Case No. 21STCV02575
18 (wage and hour class and representative PAGA action, final approval granted May 31, 2023);
19 *Salter v. Quality Carriers, Inc.*, U.S. District Court for the Central District of California Case No:
20 2:20-cv-00479-JFW-JPRx (wage and hour class and representative PAGA action, final approval
21 granted March 27, 2023); *Eaton v. Cavalia (USA) Inc., et al.*, San Francisco County Superior
22 Court, Case No. CGC-19- 579421 (wage and hour class and representative PAGA action, final
23 approval granted November 21, 2022); *Johnson v. Randy Taylor Consulting, LLC, et al.*, Los
24 Angeles County Superior Court Case No. 21SMCV00156, SSC-207 (wage and hour class and
25 representative PAGA action, final approval granted November 2, 2022); *In Re Southern California*
26 *Gas Leak Cases, Judicial Council Coordinated Proceeding No. 4861*, assigned to Hon. Daniel J.
27 Buckley, Coordination Trial Judge, Dept. SSC-1 (co-lead counsel for class action and member of
28 the class action steering committee, final approval granted April 29, 2022); *Samano v. De Leon*

1 *Transport, Inc.*, Los Angeles County Superior Court, Case No. 19STCV44589 (wage and hour
2 class and representative PAGA action; final approval granted January 22, 2022); *Johnson, et al.*,
3 *v. Angel View*, San Bernardino County Superior Court, Case No. CIVDS1935378 (wage and hour
4 class and representative PAGA action; final approval granted November 18, 2021); *Imperial Wage*
5 *And Hour Cases*, San Bernardino County Superior Court, Case No. JCPDS5130 (wage and hour
6 class and representative PAGA action; final approval granted November 2, 2021); *Metzke v.*
7 *Thermo Fisher Scientific, Inc.*, San Francisco County Superior Court, Case No. CGC-19-581914
8 (class and representative PAGA action; final approval granted October 28, 2021); *Daves, et al. v.*
9 *Amadeus Waterawys, Inc.*, Los Angeles County Superior Court, Case No. 19STCV25203 (wage
10 and hour class action; final approval granted January 8, 2021); *Pereyra v. Mike Campbell &*
11 *Associates*, Los Angeles County Superior Court Case No. BC365631 (wage and hour class action,
12 final approval granted); *Lloyd v. Navy Federal Credit Union*, United States District Court for the
13 Southern District of California, Case No. 3:17-cv-01280 (final approval granted May 18, 2019);
14 *Story v. SEFCU*, United States District Court for the Northern District of New York, Case No.
15 1:18-cv-00764 (final approval granted on February 25, 2021); *Smith v. Bank of Hawaii*, United
16 States District Court for the District of Hawaii, Case No. 1:16-cv-00513 (final approval granted
17 on December 22, 2020); *Coleman-Weathersbee v. Michigan State University Federal Credit*
18 *Union*, United States District Court for the Eastern District of Michigan, Case No. 2:19-cv-11674
19 (final approval granted on July 29, 2020); *Walker v. People's United Bank*, United States District
20 Court for the District of Connecticut, Case No. 3:17-cv-00304 (final approval granted on June 29,
21 2020); *Salls v. Digital Federal Credit Union*, United States District Court for the District of
22 Massachusetts, Case. No. 18-cv-11262-TSH (final approval granted in January 2020); *Pingston-*
23 *Poling v. Advia Credit Union*, United States District Court for the Western District of Michigan,
24 Case No. 1:15-CV-1208 (final approval granted in January 2020); *Ketner v. SECUCU Maryland*, Civil
25 No.:1:15-CV-03594-CCB (D. MD. 2017) (final approval granted January 11, 2018); *Towner v. Ist*
26 *MidAmerica Credit Union*, No. 3:15-cv-1162 (S.D. Ill. 2017) (final approval granted in November
27 2017); *Lane v. Campus Federal Credit Union*, Case No. 3:16-cv-00037 (M.D. La. 2017) (final
28 approval granted in August 2017); *Fry v. MidFlorida Credit Union*, United States District Court

for the Middle District of Florida, Case No. 8:15-CV-2743 (final approval granted); *Ramirez v. Baxter Credit Union*, United States District Court for the Northern District of California, Case No. 16-cv-03765-SI (final approval granted); *Lynch v. San Diego County Credit Union*, San Diego County Superior Court, Case No. 37-2015-00008551 (final approval granted); *Gunter v. United Federal Credit Union*, United States District Court for the District of Nevada, Case No. 3:15-cv-00483-MMD-WGC (final approval granted); *Hernandez v. Point Loma Credit Union*, San Diego County Superior Court, Case No. 37-2013-00053519 (final approval granted); *Gray v. Los Angeles Federal Credit Union*, Los Angeles County Superior Court, Case No. BC625500 (final approval granted in); *Morales v. Kern Schools Federal Credit Union*, Kern County Superior Court, Case No. BCV-15-100538 (final approval granted in June 2017); *Manwaring v. Golden 1 Credit Union*, Sacramento County Superior Court, Case No. 34-2013-00142667 (final approval granted); *Casey v. Orange County Credit Union*, Orange County Superior Court No. 30-2013-00658493-CJ-BT-CXC (final approval granted); *Sewell v. Wescom Credit Union*, Los Angeles County Superior Court No. BC5860 (final approval granted); *Fernandez v. Altura Credit Union*, Riverside County Superior Court, Case No. RIC1610873 (final approval granted); *Hernandez v. Logix Federal Credit Union*, Los Angeles County Superior Court, Case No. BC628495 (final approval granted); *Bowens v. Mazuma Federal Credit Union*, United States District Court for the Western District of Missouri, Case No. 15-00758-CV-W-BP (final approval granted); *Santiago v. Meriwest Credit Union*, Sacramento County Superior Court, Case No. 34-2015-00183730 (final approval granted); *Howard v. Sage Software*, Los Angeles County Superior Court Case No. BC487140 (final approval granted); *Kirtley v. Wadekar*, United States District Court for the District of New Jersey, Case No. 05-5383 (final approval granted); *Alston v. Pacific Bell*, Los Angeles County Superior Court Case No. BC297863 (final approval granted); *Oshaben v. Monster Worldwide, Inc.*, et al., San Francisco County Superior Court Case No. CGC-06-454538 (final approval granted); *Cole v. T-Mobile USA, et al.*, Central District of California Case No. 06-6649 (final approval granted).

5. This Court previously on July 19, 2024, preliminarily approved a proposed settlement of the wage and hour class and PAGA issues in this case for \$1,400,000, which had been brought to this Court for approval by the *Verdugo* plaintiff only. After learning of this, proposed class

representatives Jermaine Willis, Corey Devine, and Sheri King filed a Motion to Vacate and Intervene on January 10, 2025, pointing out what they believed to be issues with that \$1,400,000 amount. As a result, Defendant agreed to attend a new mediation with these newly added class representatives before the Honorable Amy D. Hogue of Signature Resolution. Before her retirement, Judge Hogue served a Los Angeles County Superior Court judge for approximately twenty years, including seven years as a judge of the Complex Litigation Division of the Los Angeles Superior Court, where she presided over the approval of countless wage and hour class actions and representative PAGA matters, and was also the primary author of the Model Wage and Hour Class Action and PAGA Settlement Agreement used in many complex courts across the State of California.

6. On October 9, 2020, about three years before the *Saige* action was filed, Corey Devine filed his complaint against Defendant in the Superior Court for the County of Los Angeles, bringing claims based on Defendant's failure to provide required meal periods, failure to provide required rest periods, failure to pay overtime wages, failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages due to discharged or quitting employees, failure to provide itemized wage statements, failure to indemnify for necessary business expenditures, and unlawful wage deductions. Mr. Devine filed a First Amended Complaint on January 12, 2021. In response to the FAC, Defendant filed a demurrer and motion to strike on or about February 17, 2021, which was fully briefed and argued on June 23, 2021. Mr. Devine filed a Second Amended Complaint ("SAC") on July 13, 2021. Defendant filed an Answer to the SAC on August 23, 2021. On October 1, 2021, Defendant served discovery on Mr. Devine, to wit, 40 requests for production and a notice for Mr. Devine's deposition. Mr. Devine served written responses to the requests for production and produced 167 pages of documents on November 29, 2021. Mr. Devine served 31 special interrogatories and 49 requests for production on Defendant. On April 8, 2022, Defendant filed a Motion to Compel Arbitration, seeking to require Mr. Devine to arbitrate his claims against Defendant. On May 25, 2022, the parties attended a mediation before Anthony F. Pantoni, Esq. of Signature Resolution, which was unsuccessful. On August 23, 2022, Defendant filed an Amended Motion to Compel Arbitration, arguing that Mr.

Devine was required to arbitrate his claims under *Viking River*. The motion was fully briefed and heard on January 19, 2023, and the court ordered Mr. Devine to arbitrate his individual claims against Defendant while staying the representative PAGA claims. Mr. Devine filed a demand for arbitration with the American Arbitration Association on February 8, 2023. Following depositions and written discovery, the arbitration hearing was held on April 9 and 10, 2024. Mr. Devine submitted a post-hearing brief on May 24, 2024; Defendant filed a response on June 21, 2024; Mr. Devine filed a reply on June 21, 2024; and Mr. Devine filed a supplemental brief on July 30, 2024. On August 19, 2024, the arbitrator issued an interim award, finding that Mr. Devine was the prevailing party on several claims and an aggrieved employee. On September 18, 2024, Mr. Devine filed a motion for attorneys' fees and costs, seeking reimbursement for 331.4 hours of attorney work on the arbitration.

7. On March 15, 2022, Plaintiff Verdugo filed her complaint in the Superior Court for the County of Los Angeles, bringing PAGA and class claims against Defendant that substantially overlapped with those brought by Mr. Devine. On May 9, 2022, Defendant removed the *Verdugo* action to the U.S. District Court for the Central District of California. On October 19, 2022, Defendant filed a Motion to Compel Arbitration, seeking to require Ms. Verdugo to arbitrate her claims against Defendant. On October 20, 2022, the *Verdugo* parties filed a joint stipulation to continue the Motion to Compel Arbitration hearing, informing the court that the parties had settled the matter. On November 23, 2022, Plaintiff Verdugo filed a Motion for Preliminary Approval of a class and PAGA settlement between the parties. The court denied the motion, and the motion was re-filed on three subsequent occasions. Judge Olguin denied the motion a fourth time on July 13, 2023, and stated that although he would allow an additional Motion For Preliminary Approval to be filed, it would need to be with an entirely new law firm representing the proposed class. There is extensive briefing before this Court in Tuolumne County as a part of Plaintiffs Corey Devine's and Jermaine Willis's and Shari King's Motion to Vacate and Intervene recounting the details of the denials by Judge Olguin. On August 11, 2023, Defendant filed a Motion to Compel Arbitration and Dismiss the Complaint. On August 18, 2023, Plaintiff Verdugo file a Notice of Non-Opposition to this motion. On August 22, 2023, the district court entered an order dismissing

1 Plaintiff Verdugo's Complaint without prejudice. On or about September 26, 2023, Plaintiff
2 Verdugo served Defendant with a Demand for Arbitration. On or about January 30, 2024, the
3 Verdugo parties entered into a Stipulated Settlement Agreement and Release of Claims, and
4 Plaintiff Verdugo submitted a Motion for Approval of Class Action and PAGA Settlement to the
5 parties' selected arbitrator. On April 8, 2024, the arbitrator entered an award purporting to grant
6 preliminary approval of the class action and PAGA settlement. On April 22, 2024, the Verdugo
7 parties filed a Joint Motion to Confirm Arbitration Award in Tuolumne County Superior Court,
8 seeking approval of this award. This Court entered an order confirming the arbitrator's award on
9 July 19, 2024. On October 10, 2024, the *Verdugo* parties filed a Notice of Related Cases in the
10 *Devine* action. On January 10, 2025, Mr. Devine filed a Motion to Vacate the court's July 19, 2024
11 Confirmation Order and requested leave to intervene in the Tuolumne action. Defendant and
12 Plaintiff Verdugo filed oppositions to the Motion to Vacate on January 31, 2025; Mr. Devine filed
13 a reply on February 6, 2025; and on February 13, 2025, this Court issued a tentative ruling vacating
14 the July 19, 2024 Confirmation Order. At the February 14, 2025 hearing on Mr. Devine's Motion
15 to Vacate, the Court permitted supplemental briefing and granted leave to file a Complaint In
16 Intervention. Mr. Devine and Mr. Jermaine Willis filed their Complaint In Intervention on
17 February 21, 2025, bringing class action and PAGA claims for violation of the California Labor
18 Code, and Ms. King filed her Complaint in Intervention on June 2, 2025, also for class claims and
19 PAGA violations. On March 14, 2025, Defendant and Plaintiff Verdugo filed supplemental briefs
20 in opposition to the Motion to Vacate, and on April 18, 2025, Mr. Devine filed a supplemental
21 brief. A hearing on the Motion to Vacate was scheduled to take place on May 2, 2025 before it
22 was continued on two occasions to permit the parties to participate in mediation.

23 8. On July 14, 2025, the parties to the Actions, as well as counsel for plaintiffs in a related
24 case, *Saige et al v. Capstone Logistics, LLC*, No. 5:24CV00195 (C.D. Cal.), participated in a
25 mediation before Judge Amy D. Hogue (Ret.). Specifically, on the plaintiffs' side, Tyler Dosaj and
26 I appeared on behalf of the putative class members and Aggrieved employees through
27 representatives Jermaine Willis and Corey Devine; attorneys Larry Lee and Kristen Agnew
28 appeared through Mr. Escobar and Ms. King; and, attorney James Treglio appeared on behalf of

1 Plaintiff Verdugo. The matter did not settle on the day of the mediation, but Judge Hogue
2 subsequently submitted a mediator's proposal to the parties, which the parties accepted. The
3 Settlement Agreement for which the parties seek preliminary approval reflects the terms of that
4 mediator's proposal.

5 9. Plaintiff Ivan Escobar filed the initial complaint in the *Escobar* action on November
6 9, 2020, bringing claims under PAGA for Capstone's failure to provide accurate itemized wage
7 statements in San Joaquin County Superior Court. Capstone filed a notice of removal, which Mr.
8 Escobar opposed, and the case returned to San Joaquin County Superior Court. Mr. Escobar then
9 filed a First Amended Complaint. Capstone demurred to the First Amended Complaint on the
10 grounds that the *Escobar* action should be stayed under the doctrine of exclusive concurrent
11 jurisdiction in light of the earlier filed *Devine* action. Following briefing on the demurrer, Mr.
12 Escobar and Capstone stipulated to the filing of a Second Amended Complaint. Mr. Escobar filed
13 the Second Amended Complaint on March 30, 2022. On May 2, 2022, the court sustained
14 Capstone's demurrer in part, staying the *Escobar* action.

15 10. Defendant has represented that the Class consists of 17,344 Capstone employees.

16 11. Defendants' own records showed that Class members were subject to certain common
17 policies and practices and paid according to uniform formulae. Plaintiffs' position that their claims
18 are not just typical of those of the other putative class members, they are essentially identical, as
19 they were subject to the same employment policies and practices as other Class members.

20 12. The interests of the Plaintiffs are not antagonistic to those of the other class members;
21 in fact, their interests are aligned because they were subject to the same employment policies and
22 practices. Moreover, Plaintiffs have actively participated in the Actions and understand their
23 responsibility to assist Class Counsel in prosecuting the Actions on behalf of the Class.

24 13. Certification of the Class for settlement purposes is superior here because there will
25 be a global resolution of all claims at once, which fosters judicial economy. Class certification is
26 also vastly superior to litigation of numerous individual claims because most of the claims are too
27 small to litigate outside of the class context.

28 14. The investigation and discovery conducted in this matter have been adequate to give

1 the Plaintiffs and Class Counsel a sound understanding of the merits of their position, Capstone's
2 defenses, and to evaluate the reasonable value range of the claims of the Class. Both before and
3 after initiating the Action on behalf of the putative class, Class Counsel diligently investigated the
4 claims alleged and conducted legal research regarding Defendant's potential liability and defenses.
5 In the Devine arbitration, the parties exchanged written discovery, and Capstone produced over
6 1,700 pages of documents relevant to Mr. Devine's claims, including contracts and policy
7 documents. For mediation purposes, Capstone produced a random sample of time and pay records
8 showing payment of wages, overtime, meal and rest break premiums, and business expenses,
9 which amounted to 144,155 rows of data. Capstone also provided information regarding the
10 number of non-exempt workers, number of workweeks, and average rates of pay for relevant
11 periods. Class Counsel analyzed this data with expert assistance to evaluate the potential damages
12 and penalties at issue in the Actions. The July 14, 2025, mediation before Judge Hogue proceeded
13 against the backdrop of this data and damages analysis, which permitted the parties to negotiate
14 with an objective view of Capstone's potential liability exposure.

15 15. Settlement negotiations at all times were at arm's length, adversarial, and devoid of
16 any collusion. Class Counsel have extensive experience litigating wage and hour class and PAGA
17 actions such as this one, and this helped counsel to make an informed assessment of the strengths
18 and weaknesses of the instant case. As discussed above, the Settlement was reached following
19 two separate mediation sessions, and was the result of a mediator's proposal by Judge Hogue.
20 Attorneys Karen Gold and Jonathan M. Genish of Blackstone Law, APC, counsel for Jacob Saige
21 and Reginald McOwens in the *Saige* action, were present at the July 14, 2025 mediation before
22 Judge Hogue. Judge Hogue was informed of the *Saige* court's ruling denying Capstone's motion
23 to compel arbitration. Accordingly, this information was baked into Judge Hogue's proposal that
24 the parties settle the Actions for \$5,950,000. I believe the proposed settlement is fair and
25 reasonable, and I support it.

26 16. Based on my consultations with co-counsel Larry Lee and Kristen Agnew, as well as
27 internal consultations at this law firm, and the work-product protected consultations with wage-
28 and-hour economics consulting firms, Class Counsel's analysis of the sample data provided by

Capstone and legal analysis of the strength of the claims, I believe the following is a reasonable estimate of Capstone's potential exposure in the Actions:

Claim	Maximum Exposure	Discounted Exposure
Failure to Provide Required Meal Periods	\$13,545,071.26	\$1,354,507.13
Failure to Provide Required Rest Periods	\$14,356,245	\$717,812.25
Failure to Pay Overtime and Minimum Wages	\$2,334,071.95	\$2,100,664.75
Failure to Pay All Wages Due to Discharged or Quitting Employees	\$57,946,591.66	\$5,794,659.17
Failure to Provide Accurate Itemized Wage Statements	\$10,875,957.07	\$2,175,191.41
Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties		\$867,200
PAGA Penalties	\$48,324,716.10	\$2,416,235.80
TOTAL	\$147,382,653.04	\$15,426,270.51

These calculations were based on a class member count of 17,344, with 541,929 workweeks, and an average hourly rate of pay of \$19.58. Further, the assumed violation rate for the meal and rest period claims was 31.2%; the assumed amount of business expenses for reimbursement per pay period was denied by Defendant and therefore estimated at \$50 per class member; and, 12,331 former employees were estimated to be eligible for waiting time penalties.

17. With regard to the rest breaks, information revealed Capstone did not require recording the start and finish times of the rest breaks, and as such would make the certification of that issue even more challenging. Regarding the expense reimbursement claim, Capstone denied any requirement for cell phone use.

1 18. Regarding the average share of the GSA that individual Class Members will receive,
2 assuming the approval of the requested attorneys' fees and costs, service awards, and
3 administrative expenses, according to calculations computed by attorney Tyler Dosaj of this firm,
4 based on data produced in this case by Capstone and with the assistance of economic consultants
5 hired for this case, the average payout per class member will be approximately \$206.02, including
6 payments from the Net Settlement Fund and the portion of the PAGA Settlement Payment that
7 will be distributed to aggrieved employees. On a per workweek basis, assuming 542,000
8 workweeks, this means class members will receive approximately \$6.59 per workweek.

9 19. It is my estimate that further litigation would likely cost hundreds of thousands of
10 dollars. Capstone possesses substantial resources to defend the Actions and is defended by Duane
11 Morris LLP, which I understand to be considered a preeminent employment litigation defense
12 firms. The arbitration in the *Devine* action alone cost \$233,545 in attorneys' fees and \$18,706.02
13 in litigation expenses. In this case, Plaintiffs still would need to move for class certification and
14 prevail, then likely defeat a motion for summary judgment, then still prevail at trial, were the matter
15 to continue. Whichever side did not prevail at trial would likely appeal, resulting in hundreds of
16 hours of additional attorney time and tens of thousands of dollars in additional attorneys' fees and
17 costs, all of which would be paid by the class members. The *Devine* action was filed on October
18 9, 2020, over five years ago, and this additional litigation activity would likely consume another
19 three to five years. In contrast, the proposed Settlement provides immediate relief to the class
20 without the uncertainty and burden and delay of these likely events.

21 20. Plaintiff Devine provided proper notice to the LWDA and Capstone prior to the filing
22 of the *Devine* action via letter on August 4, 2020, 65 days before the filing of the initial complaint
23 on October 9, 2020. This letter included the factual material required by Labor Code § 2699.3
24 alerting the LWDA and Capstone to the nature of the alleged violations. As of the filing of this
25 Motion, this Motion and the Settlement Agreement will have been uploaded to the Department of
26 Industrial Relations' PAGA Filing Portal on October 31, 2025.

27 21. None of the attorneys at The Kick Law Firm, APC, are involved in the governance of
28 Public Citizen nor on its Board of Directors.

1 22. The notice will be provided in English and Spanish.

2 23. Class Counsel put the administration of this notice program out for bid to two class
3 action administrators with experience in wage and hour class action settlement administration, and
4 the lower of the two bidders is Phoenix Class Action Administration Solutions (“Phoenix”), which
5 has estimated that its costs will amount to \$65,950. Class Counsel proposes that Phoenix serve as
6 the Settlement Administrator in this matter.

7 24. The Kick Law Firm, APC undertook this case on a contingent basis, with the
8 understanding that the firm would not be compensated for its efforts unless the case was successful.
9 To date, TKLF has not been paid for any of its time spent on this matter. The time spent on this
10 matter by the firm’s attorneys has required considerable work that could have, and would have,
11 been spent on other billable matters. As a result of having accepted and been devoted to this case,
12 it is my informed belief this law firm wound up not representing parties in cases it otherwise would
13 have, and which in my opinion likely would have compensated this firm at its hourly rates
14 requested in this matter.

15 25. Class Counsel seek reimbursement of necessary litigation costs in an amount not to
16 exceed \$100,000. To date, the reasonable litigation costs expended by The Kick Law Firm, APC,
17 alone exceeds \$67,500, and I am informed those of Diversity Law Group are approximately
18 \$15,000. These costs will be itemized for the Court’s review with the Motion for Final Approval.

19 26. As detailed in their concurrently filed declarations, Plaintiffs made significant
20 contributions to the success of this lawsuit for the Class, undertook reputational risks, and
21 expended time and effort on behalf of the Class. Among other things, the Plaintiffs provided
22 essential information for the prosecution of this action and in connection with negotiations and
23 settlement, gathered and provided pertinent documents, took time to participate in phone calls with
24 counsel, and reviewed the settlement documents. At no time did Plaintiffs ever have a guarantee
25 of any personal benefit as a result of this case. Plaintiff Devine in particular has been actively
26 involved in this matter for about five years and has expended substantial time and effort to prepare
27 for and appear at his arbitration hearing. The reason for the higher requested award for Mr. Devine
28 is that not only is he the only representative who was deposed in this matter, but he also appeared

1 for and testified at the binding PAGA arbitration in this matter, including spending additional days
2 preparing for it.

3 27. Judge Hogue was aware of the *Saige* action and the denial of Capstone's motion to
4 compel arbitration therein when she developed the mediator's proposal that resulted in this
5 Settlement.

6 28. The law firms involved in this matter have reached a proposed agreement regarding
7 fee-sharing. I do not believe the agreement has caused the requested fees in this matter to be higher
8 than they otherwise would be. In fact, the fees being requested are one-third, and in many wage
9 and hour class actions I am aware the attorneys representing the plaintiffs nowadays often request
10 a 35% fee award rather than 33-1/3%, including in cases in which there was a lot less work
11 performed than in this case, and a lot less complexity than in this case. Regarding the specifics of
12 the fee-sharing, the attorneys intend to share as follows: a.) \$150,000.00 shall be paid to this firm,
13 TKLF; b.) \$350,000.00 shall be paid to Potter Handy, arising from its work through Diversity Law
14 Group; c.) after subtracting the amounts in (a) and (b), the remaining net amount would be paid
15 41.255% to DLG and 58.745% to TKLF, and from TKLF's share TKLF would pay The Law
16 Office of Nick Rosenthal 30% of TKLF's fees. I have informed this firm's direct clients Mr. Willis
17 and Mr. Devine of this proposed fee sharing in writing.

18 29. Attached hereto as Exhibit 1 is a true and correct copy of the Verdugo Settlement
19 Agreement and Release, fully signed on 2025 10 13.

20 30. Attached hereto as Exhibit 2 is a true and correct copy of the Devine Second
21 Amended Complaint, filed on July 13, 2021.

22 31. Attached hereto as Exhibit 3 is a true and correct copy of the Interim Award of
23 Arbitrator, in *Devine v. Capstone Logistics, LLC*.

24 32. Attached hereto as Exhibit 4 is a true and correct copy of the Final Award of
25 Arbitrator, dated January 3, 2025, granted in *Devine v. Capstone Logistics, LLC*.

26 33. Attached hereto as Exhibit 5 is a true and correct copy of the Devine Complaint in
27 Intervention, filed on February 21, 2025, in Tuolumne County Sup. Ct.
28

34. Attached hereto as Exhibit 6 is a true and correct copy of the Saige Complaint, filed on January 26, 2024, in Riverside County Superior Court against Capstone Logistics, LLC.

35. Attached hereto as Exhibit 7 is a true and correct copy of the Escobar Second Amended Complaint, filed on March 30, 2022, in San Joaquin Superior Court, against Capstone Logistics, LLC.

36. Attached hereto as Exhibit 8 is a true and correct copy of the deposition transcript of PMQ Thomas Matthew Peot, taken on March 21, 2024.

37. Attached hereto as Exhibit 9 is a true and correct copy of the fully executed Verdugo Settlement Agreement.

38. Attached hereto as Exhibit 10 is a true and correct copy of the Gomez Motion for Preliminary Approval, filed in *Gomez v. Pinnacle Workforce Logistics, LLC*, Case No. CIVDS1804163, San Bernadino Sup. Ct.

39. Attached hereto as Exhibit 11 is a true and correct copy of the Gomez Final Approval Order, entered in *Gomez v. Pinnacle Workforce Logistics, LLC*, Case No. CIVDS1804163, San Bernadino Sup. Ct.

40. Attached hereto as Exhibit 12 is a true and correct copy of the Gomez Settlement Agreement.

41. Attached hereto as Exhibit 13 is a true and correct copy of the Claimant's Motion for Fees and Costs, filed in *Devine v. Capstone Logistics, LLC*, Case No. 01-23-0000-5535, Los Angeles Sup. Ct.

42. Attached hereto as Exhibit 14 is a true and correct copy of the Devine Letter to L.W.D.A., dated August 4, 2020.

43. Attached hereto as Exhibit 15 is a true and correct copy of the LWDA Payment Confirmation, from August 4, 2020, representing the fee for the Initial P.A.G.A Notice filing.

44. Attached hereto as Exhibit 16 is a true and correct copy of the Verdugo Complaint, filed in *Verdugo v. Capstone Logistics, LLC*, Case No. 22STCV09270, Los Angeles Sup. Ct. (March 15, 2022).

