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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

CAPSTONE LOGISTICS, LLC, a
Delaware limited liability company with
its principal place of business in Georgia,
and DOES 1 to 100, inclusive,

Defendants.

Case No. 2:22-cv-03141-FMO-E

**GERALD L. MAATMAN, JR.
DECLARATION IN SUPPORT OF
MOTION FOR PRELIMINARY
CLASS CERTIFICATION AND
APPROVAL OF SETTLEMENT
AGREEMENT**

Date: March 9, 2023

Time: 10:00 a.m.

Location: 6D

Judge: Hon. Judge Fernando M. Olguin

DECLARATION OF GERALD L. MAATMAN, JR.

I, Gerald L. Maatman, Jr., based on my personal knowledge and pursuant to 28 U.S.C. § 1746, hereby state as follows:

1. I am over the age of 18 and I have personal knowledge of the following facts.
2. I am an attorney with Duane Morris LLP and counsel for Defendant Capstone Logistics, LLC (“Capstone”) in this matter.
3. I submit this declaration in support of the re-filing of Plaintiff’s Unopposed Motion for Class Certification and Preliminary Approval of Settlement Agreement.
4. Attached hereto as Exhibit 1 is a true and correct copy of the Revised Stipulated Settlement Agreement And Release Of Claims signed by the parties and their respective counsel.
5. On June 28, 2022, the Parties mediated this matter with mediator Lisa Klerman. Ms. Klerman is a former partner at Morrison & Foerster and her mediation practice specializes in the resolution of employment law disputes.
6. In preparation for the mediation, Capstone provided Plaintiff with several documents including: (1) Defendant’s 2018 Associate Handbook; (2) Defendant’s CA Handbook Addendum; (3) a copy of the Settlement Agreement in *Gomez v. Pinnacle Logistics, LLC*, San Bernardino Superior Court, Case No. CIVDS1804163, along with related pleadings and court’s approval order; (4) a

copy of the plaintiff's arbitration agreement; and (5) a sampling of pay data relevant to the lawsuit.

7. Following an exhaustive mediation with Ms. Klerman, the Parties came to a resolution of the matter, signed a binding Memorandum of Understanding, and entered into the Settlement Agreement (Exhibit 1 hereto) for which the Parties now seek preliminary approval.

8. I am lead counsel for Capstone in other overlapping matters that are pending: *Devine v. Capstone Logistics, LLC, et al.*, Case No. 20STCV39030 (Los Angeles County Superior Court); *Escobar v. Capstone Logistics, LLC, et al.*, Case No. STK-CV-UOE-2020-0009429 (San Joaquin County Superior Court); *Barba v. Capstone Logistics, LLC, et al.*, Case No. RG21100895 (Alameda County Superior Court); and *Torres, et al. v. Capstone Logistics, LLC*, Case No. 5:22-cv-00228 (Central District of California).

9. All of these pending matters involve factual allegations related to Capstones pay practices and policies and assert claims similar to those asserted in this case. In recognition of that fact, two of the matters were stayed pursuant to the doctrine of exclusive concurrent jurisdiction, in favor of the earlier filed matters, and the third has agreed to resolve his claims on an individual basis to avoid a motion to stay.

10. In the first-filed case, *Devine*, Plaintiff asserted a PAGA claim against Capstone for alleged (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to indemnify employees for necessary expenditures incurred in discharge duties; (6) failure to furnish accurate itemized wage statements; (7) failure to timely pay all wages due to discharged and quitting employees; (8) engagement in unlawful, unfair or fraudulent business acts or practices; and (9) failures to comply with Labor Code and IWC Wage Order No. 9-2001 provisions.

11. On January 19, 2023, the *Devine* court entered a ruling on Capstone's Motion to Compel Arbitration finding that the plaintiff's individual PAGA claim must be compelled to arbitration; and the representative portion of the plaintiff's PAGA claim is stayed pending the California Supreme Court's decision in *Adolph v. Uber Technologies Inc.*

12. The second-filed matter, *Escobar*, alleges that Capstone failed to provide itemized wage statements in violation of the California Labor Code. Plaintiff seeks to bring his claims on behalf of himself and all other non-exempt employees who worked in California. That matter is stayed pending resolution of *Devine*.

13. The third-filed matter, *Barba*, alleges claims similar to *Devine* and *Escobar*, and *Barba* is stayed pending the resolution of *Devine* and *Escobar*.

14. The *Torres* matter is pending in the Central District of California. The *Torres* matter was brought as a class action and PAGA suit alleging violations very similar to *Devine*. To avoid a motion to stay, the parties in *Torres* have agreed to resolve the matter on an individual basis and are engaged in settlement negotiations to that effect.

15. All non-exempt employees hired by Capstone after May 26, 2016, accepted arbitration agreements with class action waivers.

16. The evaluation of these other matters during the mediation clarified for the parties and the mediator the scope of the current action, and helped the parties ensure that the Settlement Agreement covered the appropriate causes action relevant to the class members in this case.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed: **February 2, 2023**

By: /s/ Gerald L. Maatman, Jr.
Gerald L. Maatman, Jr.