

ERIC A. GROVER (SBN 136080)
eagrover@kellergrover.com
ROBERT W. SPENCER (SBN 238491)
rspencer@kellergrover.com

KELLER GROVER LLP
1965 Market Street
San Francisco, California 94103
Telephone: (415) 543-1305
Facsimile: (415) 543-7861

DANIEL F. GAINES, (SBN 251488)
daniel@gaineslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, California 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff
BARRY COLE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

BARRY COLE, on behalf of himself and on
behalf of all similarly situated individuals,

Plaintiff,

v.

XEROX CORPORATION, a New York
corporation, and DOES 1 through 10, inclusive,

Defendants.

Case No: 24CV-06565

Assigned for all purposes to the
Hon. Stephanie L. Jamieson

CLASS ACTION

**DECLARATION OF BARRY COLE IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT AND MOTION
FOR AWARD OF REASONABLE
ATTORNEYS' FEES AND COSTS, CLASS
REPRESENTATIVE INCENTIVE
AWARD/GENERAL RELEASE PAYMENT,
AND SETTLEMENT ADMINISTRATION
FEES**

Date: July 25, 2025
Time: 8:15 a.m.
Dept: 8

Complaint filed: December 16, 2024
Trial Date: TBD

1 I, BARRY COLE, declare as follows:

2 1. I am the Class Representative Plaintiff in this case against Xerox Corporation.
3 (“XEROX” or “Defendant”). I submit this Declaration in support of the Motion for Final
4 Approval of Class and PAGA Action Settlement as well as the Motion for an Order Awarding
5 Attorneys’ Fees and Cost, Class Representative Incentive Award/General Release Payment, and
6 Settlement Administration Fees. I am a competent adult, I have personal knowledge of the facts
7 set forth in this declaration, and I could and would testify competently under oath if called as a
8 witness.

9 2. Xerox provides repair and maintenance services of products for clients throughout
10 California. Defendant employs non-exempt field technical service representatives to perform the
11 repair and maintenance services at their clients’ sites.

12 3. I worked for Defendant as a non-exempt field technical service representative in
13 California from approximately October 2020 through October 2022.

14 4. I believed it was wrong for Xerox to not pay me for my full wages owed, including
15 my on-call and standby time, to not provide me with adequate meal and rest periods, and to not
16 reimburse my business expenses.

17 5. Prior to initiating this action, I spoke to my attorneys Daniel Gaines, Esq., and
18 Alex Katofsky of Gaines and Gaines, APLC. I spoke to Mr. Katofsky for close to an hour. I also
19 spoke with Mr. Gaines for over an hour describing to the facts of my case. We also discussed the
20 fact that this case would be brought as a putative class action and PAGA action. We also
21 discussed what PAGA action is, including that it is an enforcement action on behalf of the State
22 of California that seeks penalties. We also discussed my responsibilities as a proposed class
23 representative and representative of the aggrieved employees. Additionally, we discussed what
24 litigation was like, including the different stages of litigation, the work it entails, and how long
25 these types of cases take. I then determined that Gaines and Gaines, APLC was the proper law
26 firm to bring my case.

27 6. I also spent several hours over multiple days searching for documents to provide to
28 my attorneys. I provided them with all the documents that I could find. When it came time to

1 do my initial disclosures, I worked with Evan Gaines, Esq. and Amelia Boothe of Gaines &
2 Gaines for about an hour to make sure they were accurate and correct, in addition to the time I
3 already spent taking part in interviews with my attorneys.

4 7. From the inception of this lawsuit, I have understood that this case was brought as
5 a potential class action, and the Court would have to approve it proceeding on behalf of the class.
6 I also have understood that this action was brought as a PAGA action, which is an enforcement
7 action on behalf of the State of California that seeks penalties. I worked with Mr. Gaines to draft
8 the PAGA letter. Mr. Gaines interviewed me several times in order to make sure the PAGA
9 letter was accurate. Mr. Gaines and I also reviewed the complaint together to make sure it was
10 accurate.

11 8. Mr. Gaines kept me up to date regarding the status of my case. We discussed that
12 Defendant removed my case from Los Angeles Superior Court to the United States District
13 Court, Central District of California. We discussed what that meant for the case. We also
14 discussed that my attorneys had propounded discovery on Defendant and my attorneys also let
15 me know that Defendant responded. Mr. Gaines and I also reviewed the first amended complaint
16 that would be filed in federal court adding the PAGA claims.

17 9. Mr. Gaines also let me know that we were bringing in Keller Grover LLP as co-
18 counsel on my case. We discussed Keller Grover LLP's experience prosecuting wage and hour
19 cases. I approved of Keller Grover LLP joining the case as co-counsel on behalf of myself, the
20 putative class, and the aggrieved employees.

21 10. I then began speaking with my attorney Robert Spencer, Esq. of Keller Grover
22 LLP. He let me know that Defendant was interested in mediating the case. We discussed what
23 that meant and what mediation was like. I also had numerous telephone conversations with Mr.
24 Spencer to answer questions he had in order to draft the mediation brief. I also kept up to date
25 regarding the mediation and made sure I was available on the date of the mediation in order to
26 answer any questions that Mr. Spencer had.

27 11. When this case settled, the parties prepared a memorandum of understanding
28 ("MOU"). I spent a little over 30 minutes talking to my attorney Mr. Spencer regarding the

1 MOU. When the formal settlement was ready, I spent another 30 minutes speaking with him
2 regarding the formal settlement, whether it was fair, and the plan of distribution. I also spent two
3 hours reviewing the settlement agreement before I signed it.

4 12. Throughout my involvement in the case, I have maintained regular telephonic
5 communications with Mr. Gaines, and then Mr. Spencer, to discuss the status of the case and to
6 respond to any questions they might have. I speak to my attorneys regularly over the telephone,
7 Mr. Gaines and then Mr. Spencer call me often to keep me updated and I regularly spoke to them
8 about the progress of the settlement, as well as the approval hearings. This case is important to
9 me and I make sure to make myself available to respond to their telephone calls as soon as I can.

10 13. When I agreed to act as a named plaintiff/Class Representative, I understood that I
11 might be responsible for some of the costs incurred by Defendant if the lawsuit was
12 unsuccessful. In addition to this, I worried about my reputation in the community if people were
13 to find out I had sued somebody. I would also have attended trial and testified if the case had
14 reached that point.

15 14. I also am concerned about the possible repercussions to my future job
16 opportunities because I have been a plaintiff in a wage and hour lawsuit against an employer.

17 15. I understood from the beginning that I was pursuing this case not only for my own
18 benefit, but also on behalf of other employees who either were not aware of their rights or were
19 too afraid of retaliation to complain.

20 16. I believe that the settlement reached in this case is fair and, in light of the risks
21 involved, will justly compensate the employees who were and are affected by the violations that
22 were the subject of the action. I believe that the enhancement I have requested is fair in light of
23 the work I put into the case, the risks I took, the harm that I believe my suing my employer could
24 cause me in terms of future job prospects, and the benefits that have been achieved for the class
25 members. I have also provided a general release of my claims.

26 17. I understand the settlement we have reached in this case must be approved by the
27 Court and I must protect the interest of the class members, the State of California, and the
28 aggrieved employees.

KELLER GROVER LLP
1965 Market Street, San Francisco, CA 94103
Tel. 415.543.1305 | Fax 415.543.7861

18. I have no interest in or relationship with the proposed Settlement Administrator, Simpluris, Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on 6/30/2025 at Long Beach, California

Signed by: 
4F52FE97D20A47A...
Barry Cole

PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **July 3, 2025** in the case of *Cole v. Xerox Corporation*, Merced County Superior Court case number 24CV-06565, I served the foregoing document(s):

DECLARATION OF BARRY COLE IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT AND MOTION FOR AWARD OF REASONABLE ATTORNEYS' FEES AND COSTS, CLASS REPRESENTATIVE INCENTIVE AWARD/GENERAL RELEASE PAYMENT, AND SETTLEMENT ADMINISTRATION FEES

on the interested party(ies) below, using the following means:

JANICE P. BROWN, ESQ. jbrown@meyersnave.com NADIA P. BERMUDEZ, ESQ. nbermudez@meyersnave.com AMANDA K. REASONS, ESQ. areasons@meyersnave.com MEYERS NAVE 600 B Street, Suite 1650 San Diego, California 92101 Telephone: (619) 330-1700 Facsimile: (619) 330-1701 Gisselle E. Lopez glopez@meyersnave.com	<i>Attorneys for Defendant</i> XEROX CORPORATION
DANIEL F. GAINES, ESQ. daniel@gaineslawfirm.com GAINES & GAINES, APLC 4550 East Thousand Oaks Boulevard, Suite 100 Westlake Village, California 91362 Telephone: (818) 703-8985 Facsimile: (818) 703-8984	<i>Attorneys for Plaintiff</i> BARRY COLE

- | | |
|-------------------------------------|---|
| ☒ | (BY ELECTRONIC SERVICE) by electronically mailing a true and correct copy in PDF format through our electronic mail system to the email address(es) set forth above, or as stated on the attached service list per agreement between the parties. |
| ☒ | (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. |


JOEY GONZALEZ