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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

GINA MARTINEZ, ISMAEL ORTEGA,
JESSICA SAELOR, as individuals, on behalf
of themselves and others similarly situated,

PLAINTIFFS,

v.

MOBILE-MED WORK HEALTH
SOLUTIONS, INC.; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 23CV410264

**DECLARATION OF KELSEY M.
SZAMET IN SUPPORT OF
PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: August 28, 2024

Time: 1:30 P.M.

Dept.: 19

Judge: Theodore C. Zayner

SAC Filed: June 25, 2024

Trial Date: Not Set

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1. I am an attorney licensed to practice before all of the courts of the State of California. I am partner in the law firm of Kingsley & Kingsley, APC and an attorney of record for Plaintiff Gina Martinez in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

3. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class and Representative Action Settlement in the above-captioned case.

4. I am the partner who has been handling the day-to day litigation of this matter since its inception. I attended the mediation and was an active participant in all settlement negotiations and I believe the proposed settlement is fair, adequate and reasonable.

5. Kingsley & Kingsley, APC is very experienced in prosecuting employment litigation. Since the year 2000, we have focused our practice on complex wage, hour, and working condition violations. My firm is extremely well-versed in class and representative action litigation and has diligently pursued this action. Kingsley & Kingsley, APC currently serves as Class Counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California. Below is a very small but representative sampling of wage and hour class cases handled by my firm:

- a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January 2002, the Hon. Anthony Mohr granted final approval of settlement in the gross amount of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.
- b. *Daniel v. Network Management Corp.* (No. BC274004, L.A. Super. Ct.) In

September 2003, the court granted final approval of Settlement in the gross amount of \$475,000 and the court approved the attorneys' fee request of 30%.

c. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In December 2005, the Hon. Rita Miller granted final approval of Settlement in the gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.

d. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the Hon. Conrad R. Aragon granted final approval of Settlement in the gross amount of \$1,000,000 and the court granted attorneys' fees request of 30%.

e. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March 2008, the Hon. Mary Thornton House granted final approval of Settlement in the gross amount of \$1,675,000.00 and attorneys' fees request of \$558,333.33 (33.33%).

f. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and attorneys' fees request of \$666,666.67 (33.33%).

g. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In March 2012, the Hon. James P. Kleinberg granted final approval of Settlement in the gross amount of \$2,000,000.00, and attorneys' fees request of \$666,666.67 (33.33%).

h. *Hirschinger v. Blue Cross of California*, (No. BC402739, L.A. Super. Ct.) In June 2013, the Hon. Lee Smally Edmund granted final approval of Settlement in the gross amount of \$4,700,000.00, and the court granted attorneys' fees request of 38%.

i. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January 2014, the Hon. William F. Highberger granted final approval of Settlement in the gross amount of \$1,500,000.00 and attorneys' fees request of \$500,000 (33.33%).

j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super.

1 Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement
2 in the gross amount of \$995,000.00, and the court granted attorney's fees request
3 of 33.33%.

4 k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016
5 after a class trial with a verdict in favor of the class, the Hon. Daniel P. Maguire,
6 awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's fees.

7 l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In
8 June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the
9 gross amount of \$2,000,000.00, and attorneys' fees request of \$666,666.67
10 (33.33%).

11 m. *Pineda, et al. v. Grimmway Enterprises, Inc.*, (No. BCV-15-101333, Kern Super.
12 Ct.) In January 2018, the Hon. Stephen D. Schuett granted final approval of
13 Settlement in the gross amount of \$9,000,000 with attorneys' fees request of
14 \$3,000,000 (33.33%).

15 n. *Hernandez v. Broward Builders, Inc.*, (No. CV-18-2032, Sacramento Super. Ct.)
16 In October 2020, the Hon. Peter M. Williams granted final approval of the
17 Settlement in the amount of \$1,500,000 with attorney's fee request of \$500,000
18 (33.33%).

19 o. *Amaro et al. v Gerawan Farming, Inc.*, (No. 1:14-cv-00147-DAD-SAB (E.D.
20 Cal.)) In October 2020, the Hon. Dale Drodz granted final approval of
21 Settlement in the amount of \$5,000,000, and attorneys' fee request of \$1,500,000
22 (30%).

23 p. *Gettys v. Banc of American Merchant Services, LLC*, (No. 19STCV17233, L.A.
24 Super. Ct.) In March 2021, the Hon. Ann I. Jones granted final approval of the
25 Settlement in the amount of \$1,900,000, and attorneys' fee request of \$633,333.33
26 (33.33%).

27 q. *Griffin, et al. v. Cavco Industries; Fleetwood Homes* (No. CIVDS1927889, San
28 Bernardino Super. Ct.) In November 2021, the Hon. David Cohn granted final

1 approval of the Settlement in the amount of \$2,250,000, and attorneys' fee request
2 of \$750,000 (33.33%).

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4 6. Kingsley & Kingsley, APC filed its first motion for class certification in the year
5 2000 and since that time has been appointed Class Counsel on dozens of wage and hour class
6 actions that have been approved for class certification. Since 2011, Kingsley & Kingsley, APC has
7 moved for class certification in 16 matters and has successfully obtained class certification in all
8 15 of those cases. A brief sampling of which includes:

- 9 a. *Lewis v. Collabrus, Inc., Santa Clara County Superior Court (109CV-142927),*
10 *approved for Class Certification in 2011.*
- 11 b. *Melendrez v. JK Communications, No. BC497692, (L.A. Super. Ct., filed December*
12 *19, 2012) (court granted contested class certification and appointed Kingsley &*
13 *Kingsley as class counsel).*
- 14 c. *Amaro, et al v. Gerawan Farming, Inc., No. 1:14-cv-00147-DAD-SAB (E.D. Cal.,*
15 *filed February 3, 2014) (court granted contested class certification and appointed*
16 *Kingsley & Kingsley as class counsel).*
- 17 d. *Suarez v. Mazatlan, Inc., No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct.,*
18 *filed January 27, 2015) (court granted contested class certification and appointed*
19 *Kingsley & Kingsley as class counsel).*
- 20 e. *Ruiz v. Daniel C. Salas Harvesting, Inc., Kings County Superior Court (16 C 0214).*
21 *contested class certification granted in June 2020.*
- 22 f. *Weldon v. Geo Corrections & Detentions, LLC, Kern County Superior Court (BCV-*
23 *16-102833), contested class certification granted in 2018.*
- 24 g. *Patton v. Skyler Electric, Nevada County Superior Court, (CU17-082544),*
25 *contested class certification granted in June 2020.*
- 26 h. *Hameister v. Jaco Oil Company, Kern County Superior Court (BCV-17-102876),*
27 *contested class certification granted in August 2020.*

28 7. When our firm's motions for class certification are denied, Kingsley & Kingsley

1 often appeals the orders. Sometimes, these denials are overturned (*Perez v. Safelite Group, Inc.*,
2 553 Fed.Appx. 667 (9th Cir. 2015); *Anderson v. Total Renal Care, Inc.*, No. B236207 (Cal. Ct.
3 App. 2012)) and other times Class Counsel is unsuccessful (*Prosad v. Del Taco Restaurant*
4 *Services, Inc.*, No. B238605 (CA. Ct. App. 2012)).

5 8. In addition to appealing class certification denials, Kingsley & Kingsley, APC has
6 been involved in numerous lengthy and protracted appeals process before the California Court of
7 Appeal, the Ninth Circuit, the Seventh Circuit, and the United States Supreme Court. Also, our
8 firm has been successful on appeal and overturned unfavorable lower court rulings or successfully
9 fought to have successful rulings affirmed. Below is just a sample of some of these appeals:

- 10 a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that
11 pharmaceutical sales representatives are exempt employees affirmed);
- 12 b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009) (lower
13 court ruling in employer's favor that certain employees can share in mandatory tip
14 pool affirmed);
- 15 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court
16 ruling in employer's favor that certain employees can share in mandatory tip pool
17 affirmed);
- 18 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in
19 employer's favor approving employer's commission pay plan affirmed) ;
- 20 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153
21 (2012) (lower court ruling that pharmaceutical sales representatives are exempt
22 employees affirmed);
- 23 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court ruling
24 that pharmaceutical sales representatives are exempt employees affirmed);
- 25 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,
26 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores*
27 *California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court
28 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.

Supreme Court affirmed lower court);

- h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App. Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L. Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel arbitration affirmed);
- i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb. 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration affirmed);
- j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing in part and affirming in part trial courts order compelling arbitration);
- k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing summary judgement in favor of employer on wage statement claim);
- l. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8, 2018) (affirming judgement for employees after bench trial);
- m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held before the California Supreme Court on January 6, 2020 and a decision was published in March 2020.

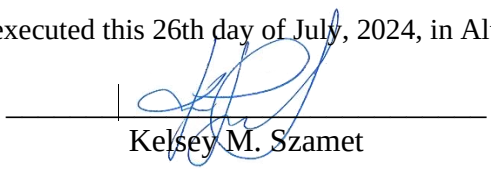
9. Mr. Kingsley was barred in 1996 and is a 26-year attorney with expertise in wage and hour class action lawsuits. He has litigated several hundred such cases, including at the appellate level at the U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of Appeal. He is also a prolific speaker at various seminars on employment law and regularly contributes to legal publications on employment topics.

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1 10. I am a partner at Kingsley & Kingsley, APC. I have been practicing since 2008. I
2 received my Bachelor of Arts degree, *cum laude*, from the University of California San Diego and
3 received my law degree from UCLA School of Law in 2008, where I was active in the Women's
4 Law Journal and community-based legal clinics.

5 I declare under penalty of perjury under the laws of the state of California that foregoing
6 is true and correct.

7 This declaration was executed this 26th day of July, 2024, in Altadena, California.

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Kelsey M. Szamet