

MATTHEW R. SCHOECH (SBN 234774)

SCHOECH LAW GROUP, PC

3511 Del Paso Rd., Ste. 160 PMB 227

Sacramento, CA 95835

Tel: (916) 569-1940 Fax: (916) 569-1939

Email: matt@norcallawfirm.com

GLEN A. VAN DYKE, (SBN 183796)

MEGAN DEHERRERA (SBN 306646)

VAN DYKE LITIGATION & TRIAL ATTORNEYS, PC

940 Southwood Blvd., Ste. 102

Incline Village, NV 89451

Tel: (530) 214-3667

Email: glen@vdlitigation.com

megan@vdlitigation.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

GLORIA NAZARENO, et al.,

Plaintiffs,

vs.

ANAND, INC, dba JACK IN THE BOX et al.,

Defendants.

) Case No. 34-2020-00278363

)

) CLASS ACTION

)

) **DECLARATION OF MATTHEW R.**

) **SCHOECH IN SUPPORT OF**

) **PLAINTIFFS' MOTION FOR FINAL**

) **APPROVAL OF CLASS ACTION**

) **SETTLEMENT**

)

) Date: February 9, 2024

) Time: 9:00 a.m.

) Dept.: 22

) Judge: Hon. Lauri A. Damrell

)

) Complaint filed: May 8, 2020

) Trial Date: Not Set

)

)

)

1 I, Matthew R. Schoech, declare as follows:

2 1. I am the managing attorney of Schoech Law Group, PC, attorneys of record for
3 Plaintiffs in this action. I am admitted to practice before all courts of the State of California. I
4 am Plaintiff's counsel in the above-captioned class action and have personal knowledge of the
5 facts thereto. I make this declaration upon my personal knowledge and, if called upon and sworn
6 as a witness, I could and would competently testify hereto.

7
8 2. I submit this Declaration in support of Plaintiffs' Motion for Final Approval of
9 Class Action Settlement served and filed herewith. I have been involved in all aspects of this
10 Action and have personal knowledge of the following facts.

11 3. My firm has served as Co-Lead Counsel for Plaintiffs, along with the law firm of
12 Van Dyke Litigation & Trial Attorneys ("VDLTA"), during the course of this litigation. I have
13 extensive experience litigating complex civil actions including multi-party litigation, wage and
14 hour claims, labor code violations, and construction defect claims. I have litigated and resolved
15 over 200 complex civil actions and have litigated multiple class action cases and am experienced
16 in litigation, settlement, and certification, of class action cases. I have exclusively been
17 practicing civil litigation for over 19 years.

18
19 4. Schoech Law Group, PC, and VDLTA have prosecuted this litigation solely on a
20 contingent-fee basis and has been at risk that it would not receive any compensation for
21 prosecuting claims against the Defendants. While Schoech Law Group, PC, and VDLTA
22 devoted its time and resources to this matter, it necessarily had to take time and resources away
23 from some other pending matters.

24 5. Formal and informal discovery has been conducted in this case. Counsel for
25 Defendants propounded Form Interrogatories-General and Requests for Admissions on Plaintiffs
26
27
28

1 and Plaintiffs, in turn, served Defendants with Form Interrogatories-General, Form
2 Interrogatories-Employment, and Request for Production of Documents. After Plaintiffs served
3 written discovery there was an agreement whereby Defendants would produce their produce their
4 timekeeping and payroll records for the class members which would allow Plaintiffs and their
5 expert to analyze the claims and potential damages.

6
7 6. During the pendency of the litigation, Schoech Law Group, PC, performed the
8 following work: initial client intakes, client communications, legally research and analysis,
9 drafting and filing pleadings, research of expert witnesses, strategy meetings, communications
10 with counsel, propound written discovery, analysis of discovery responses, analysis of significant
11 amounts of documents and data pertaining to the allegations in the Complaint, damage
12 calculations, expert consultations, retention of expert, attend case management conferences,
13 prepare mediation briefs, attend two mediations, review and analyze settlement agreement, and
14 preparation of motions for preliminary and final approval of class settlement.

15
16 7. After two full days of mediation with Judge Richard Gilbert (ret.) and extensive
17 arm's length negotiations through experienced attorneys, the Parties reached settlement on the
18 material terms of a settlement. In agreeing to the settlement we had benefit of counsel had the
19 benefit of years of experience combined with their familiarity with the facts of this case and we
20 fully support the resulting settlement as fair and as providing reasonable and substantial relief to
21 the Class Members.

22
23 8. As is proper practice for class action attorneys, Plaintiffs' counsel did not discuss
24 attorneys' fees until after an agreement was reached in principal with respect to the direct class
25 settlement benefits and the Gross Settlement Amount. The proposed Settlement also does not
26 place the attorneys' interests ahead of Class Members' interests. As counsel for Plaintiffs we seek
27
28

an award of attorneys' fees of up to one third of the total Settlement Amount, an amount that reflects that work performed by my office and co-counsel's office this Action, and the risks inherent in prosecuting this Action on a contingent fee basis.

9. Schoech Law Group, PC, maintains and retains records of all persons who have billed time for their work in this action. I have reviewed the relevant time records and have confirmed that I have performed a total of 234.4 hours of legal work on this case since the inception of this case with a corresponding lodestar of \$600/hour. The work was performed by myself for the benefit of the Class. No clerical hours have been included.

10. The following summary was prepared from time records regularly prepared and maintained by my firm and the lodestar is for work assigned and/or approved by Co-Lead Counsel:

NAME TITLE	TOTAL HOURS	HOURLY RATE	LODESTAR
Matthew R. Schoech, Attorney	234.4	\$600	\$140,640

11. My hourly rate included in the foregoing summary are the usual and customary hourly rates charged by Schoech Law Group, PC, to litigate similar matters during that time frame.

12. Since the inception of the case, my firm has expended a total of \$19,611.96 in unreimbursed costs and expenses in connection with the prosecution of this litigation. They were incurred on behalf of Plaintiffs by my firm on a contingent basis and have not been reimbursed. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

13. These costs and expenses are broken down in the chart below:

EXPENSE CATEGORY	AMOUNT INCURRED
Filing Fees (including court runner costs)	\$ 2,487.30
Service Costs	\$ 229.00
Mediation Costs	\$ 6,250.00

Postage Costs	\$ 65.82
Copy Costs	\$ 147.04
Expert Fees	\$ 10,432.80
TOTAL	\$ 19,611.96

14. I have reviewed the time and expenses reported by my firm in this case which are included in this declaration, and I affirm that they are true and accurate.

15. The fees sought by Counsel in this matter are reasonable given the length and complexity of the litigation and should be granted.

16. Although we believe that a class can be certified, we also believe in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiffs involved in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of non-certification, and potential for appeals. We also recognize that litigating these issues carries risks of limited recovery and/or a substantially delayed recovery. Plaintiffs have factored these risks into his decision to settle the case and his conclusion that the settlement amount is fair, adequate, and reasonable in light of these risks, including the substantial risks relative to class certification and the costs of pursuing such litigation, uncertainty of trial, and risk of appeal. As Defendant asserts numerous legal and factual grounds for defending this action, there is no guarantee that Class Members would recover any amount if the parties continued to litigate these claims, and any recovery would only have been after protracted litigation. The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this settlement.

17. I have a great deal of experience in wage and hour class action litigation. Plaintiffs' counsel have been approved as class counsel for multiple class actions and have extensive

1 experience dealing with complex civil litigation. Based on our experience and analysis of the
2 claims and analyzing Defendant's respective factual contentions, legal theories, and defenses, the
3 Parties were able to participate in an arm's length negotiation and reach a settlement of the claims.

4 18. Settlement in this case was reached only after litigation and extensive arm's length
5 negotiations during two full-day mediations facilitated by an experienced mediator, the Hon. Judge
6 Richard Gilbert (ret.). At all times, the negotiations were adversarial and contentious, although
7 still professional in nature.
8

9 19. Of the PAGA payment of \$10,000, \$7,500 (75%) will be paid to the LWDA with
10 the remaining \$2,500 (25%) being paid to Aggrieved Employees. The Net Settlement Amount
11 available to Class Members who submit a valid Claim Form is \$116,071.37 which was calculated
12 as follows:
13

14 Settlement	\$ 260,000.00
15 Attorneys Fees	\$ (86,666.67)
16 Costs	\$ (19,611.96)
17 Enhancement Awards	\$ (10,000.00)
18 Claims Administrator Costs	\$ (17,650.00)
PAGA Payment	\$ (10,000.00)
Net Settlement Amount	\$ 116,071.37

19
20 20. I have been involved in every aspect of this litigation and, based on my nearly 20
21 years of experience with complex civil litigation and class action litigation, I believe that the
22 settlement as a whole is fair, reasonable, and in the best interest of Class Members.
23

24 21. I received weekly updates from the Claims Administrator regarding the service of
25 the Class Notice, the submission of valid Claim Forms, opt outs, and objections. As of the date of
26 this declaration my office nor the Claims Administrator had received any objections or opt outs
27 from the settlement.
28

22. Plaintiffs, Gloria Nazareno and Eloise Iyar, have been unfailingly loyal and

1 dedicated to the Class Members throughout this litigation. Apart from the modest incentive
2 requested here, they will recover nothing other than the relief available for each Class Member.
3 Plaintiffs, as the class representatives, spent several hours contributing to the overall successful
4 result obtained for the class. Plaintiffs worked with the attorneys to locate and provide necessary
5 information and documentation to support the claims, participated in numerous meetings with
6 counsel, discussed the progression of the matter, provided settlement authority to assist with the
7 negotiations, remained on-call during the mediation and those negotiations, reviewed the terms of
8 the proposed settlement, executed the release, and provided declarations in support of the motion
9 for preliminary approval of class settlement. Furthermore, by serving in a representative capacity,
10 for the benefit of others and without any expectation of significant gain, Plaintiffs exposed
11 themselves to the risks of litigation, including being potentially liable for Defendant's fees and
12 costs if the lawsuit was unsuccessful, that the lawsuit could continue for several years, and that it
13 would be public knowledge that they were involved in a class action lawsuit. Plaintiffs also
14 understood that their individual claims for damages would be delayed because they were
15 proceeding in an action for all other homeowners in their position.

19 23. The proposed Settlement does not place the named Plaintiffs' interests ahead of the
20 interests of the Class as a whole. Apart from a reasonable Enhancement payment for their efforts
21 on behalf of the Class, typical in class action litigation (and subject to Court approval after notice
22 to the Settlement Class), the Named Plaintiffs' personal recovery in this Action and Settlement will
23 be determined in the same as any other Settlement Class Member. The Named Plaintiffs have not
24 in any way tried to leverage a class action for some personal gain or agenda.

26 24. There was no collusion among the settling Parties, or any other "obvious defect" or
27 indicia of unfairness with regard to the proposed Settlement. Litigation was at all times fully
28

adversarial, with counsel for each side vigorously advocating for their clients' respective positions.

25. Plaintiff's retained expert, Aaron Woolfson, determined that the total potential damage, including interest, was \$1,013,540.56. (See Declaration of Aaron Woolfson in Support of Plaintiffs Motion for Preliminary Approval of Class Action Settlement). Utilizing Mr. Woolfson's analysis, the settlement amount of \$260,000 constitutes 25.7% of the value of the maximum total damages in this case.

26. I am not aware of any negative reaction from any Class Members or Aggrieved Employees to the proposed settlement.

27. On January 17, 2024, I personally uploaded the Notice of Motion and Motion for Final Approval of Class Action Settlement and supporting documents – Memorandum of Points and Authorities, Declaration of Matthew R. Schoech, Declaration of Glen Van Dyke, Declaration of Christina Fowler, and Request for Judicial Notice – to the LWDA portal (<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>).

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 January 17, 2024, at Sacramento, California.



Matthew R. Schoech, Esq.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28