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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN MATEO

10 EDGAR RANGEL ROSALES, individually and)	NO. 23-CIV-02945
11 on behalf of all similarly situated individuals and)	
12 aggrieved employees,)	DECLARATION OF ADAM ROSE IN
13 Plaintiff,)	SUPPORT OF MOTION TO APPROVE
14 v.)	PAGA SETTLEMENT
15 ALL DAY USA OPERATIONS, LLC, and DOES)	Date: February 13, 2025
16 1 to 100,)	Time: 2:00 p.m.
Defendants.)	Dept: 24

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19 I, Adam Rose, declare the following:

- 20 1. I am one of the attorneys representing the plaintiff. I have personal knowledge of the facts
21 in this declaration and if called on to testify about the facts I would competently do so.
- 22 2. Attached as Exhibit A is a true and correct copy of the amended PAGA settlement
23 agreement. The amended settlement agreement reduces the attorney fees to one-third of the gross
24 settlement from 35%, clarifies that ILYM Group is the administrator with costs of \$3,350.
- 25 3. Attached as Exhibit B is a true and correct copy of the amended proposed letter that will
26 accompany payments to the aggrieved employees.
- 27 4. Attached as Exhibit C is a true and correct copy of the time spent by me and others at
28 Frontier Law Center on this case, and an itemization of the costs spent on the case.

1 5. I uploaded this declaration containing the settlement agreement at the same time as filing
2 the motion to approve the PAGA settlement.

3 6. To prepare for mediation, Defendant provided the following informal data: 1) a sampling of
4 time records, 2) a sampling of premium payments for missed meal and rest breaks, 3) a sampling of
5 pay data, and 4) an index of class members with start and applicable end dates.

6 7. The data was used to prepare a damages model; during the mediation issues were discussed
7 that merited dismissing the class action allegations without prejudice.

8 8. For the meal periods, Plaintiff's analysis showed a 43.2% violation rate. However as
9 explained above, ADK maintained that it instituted a pause in daily operations to give workers a
10 30-minute meal period, so a more realistic violation rate is 20%. Plaintiff would need to survey the
11 aggrieved employees, and they would need to corroborate the missed meal period allegation, which
12 may or may not be possible. With a 20% violation rate, the adjusted maximum liability for meal
13 period violations is $4,637 \text{ pay periods} \times \$50 \times 0.20 = \$46,370$.

14 9. For the rest periods, ADK maintained that its rest break policy was administered throughout
15 its locations, so Plaintiff would again need to survey the aggrieved employees to determine if they
16 had similar experiences with rest break issues. Assuming one in every five rest breaks was missed,
17 that is a violation rate of 20%. The calculation is $4,637 \text{ pay periods} \times \$100 \times 0.20 = \$92,740$.
18 For the off the clock work, ADK apparently did not maintain a policy requiring work off the clock.
19 Further, assuming there was work off the clock it was off a rather short duration such as five
20 minutes which is roughly 10 percent of an hour. The corresponding calculation is $4,637 \text{ pay periods}$
21 $\times \$50 \times .10 = \$23,185$.

22 10. For the wage statement penalties, Plaintiff would need to show the violations were knowing
23 intentional under Labor Code section 226, subdivision (e). Given ADK's seemingly compliant
24 policies, Plaintiff would need to obtain evidence demonstrating a conscious determination not to
25 list unpaid wages. There is a roughly 50% possibility that Plaintiff could or could not obtain that
26 evidence. Thus, the corresponding calculation is $4,637 \times \$100 \times 0.50 = \$231,850$.

27 11. Thus, based on the arguments in the motion and the attachments to this declaration, I
28 respectfully request the court to grant the renewed motion to approve the PAGA settlement.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
2 and correct.

3 Date: January 21, 2025

/s/ Adam Rose

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