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and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

LUCA MERCURI, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

SKYSKOPES, INC.; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 2023CUOE14396

*Assigned for all purposes to:
Hon. Henry J. Walsh
Dept. 42*

**DECLARATION OF KRISTY R. CONNOLLY
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

1 I, Kristy R. Connolly, hereby declare as follows:

2 1. I am an attorney at law licensed to practice before all of the courts of the State of
3 California. I am a Senior Associate with Aegis Law Firm, PC (“Aegis”), counsel for Plaintiff in this
4 matter. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.

5 2. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of
6 Class Action Settlement. If called as a witness, I could and would competently testify thereto.

7 **Case History**

8 3. On September 21, 2023, Plaintiff filed a putative class action on behalf of Defendant’s
9 non-exempt employees alleging the following causes of action: (1) failure to pay minimum wages; (2)
10 failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5)
11 failure to provide accurate itemized wage statements; (6) failure to pay all wages due upon separation of
12 employment; (7) violation of Business and Professions Code § 17200, *et seq.*; for the preceding claims.

13 4. On September 21, 2023, Plaintiff’s counsel provided written notice to the LWDA and
14 Defendant regarding Defendant’s alleged Labor Code violations, as required by Lab. Code § 2699.3(a).
15 The LWDA did not respond to this notice, indicating it did not intend to investigate, thus allowing Plaintiff
16 to bring a PAGA claim against Defendant.

17 5. In April of 2024, Plaintiff served Defendant with Special Interrogatories and Requests for
18 Production of Documents, along with a proposed *Belaire-West* opt-out notice and stipulated protective
19 order. After engaging in numerous discussions, the Parties agreed to attend a private mediation session
20 with a stay on formal discovery. To prepare for mediation, Defendant informally produced Plaintiff’s
21 personnel file, relevant policy documents, and a 25% sample of employees’ timekeeping and payroll
22 records. Plaintiff’s Counsel engaged an expert to quantify the potential exposure using the time and
23 payroll records.

24 6. On September 26, 2024, the Parties attended a mediation session with Craig J. Ackerman,
25 a respected mediator. The Parties accepted a mediator’s proposal at the end of the mediation. The Parties
26 spent the next several months negotiating the terms of the Settlement, which was finalized in March of
27 2025. The negotiations were adversarial, conducted at arm’s length and tempered by the efforts of both
28 sides to serve the interests of their clients.

1 7. On March 19, 2025, Plaintiff submitted the Settlement and this Motion to the LWDA
2 pursuant to Lab. Code § 2699(1)(2).

3 8. At the time of mediation in September of 2024, Defendant's records show the Class
4 consists of approximately 284 individuals, making joinder of all Class Members impracticable. Further,
5 the Class is readily ascertainable from Defendant's business records because all Class Members are
6 current or former employees of Defendant.

7 9. Plaintiff alleged that Defendant maintained uniform employment policies and/or practices
8 that illegally deprived Class Members of lawful wages, meal periods, rest breaks, accurate wage
9 statements, and waiting time pay. Plaintiff's allegations present common legal and factual questions of,
10 *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and overtime pay,
11 meal period, and rest break policies to all Class Members; whether these policies and practices resulted in
12 Labor Code violations; whether Defendant's conduct was intentional; and whether Class Members are
13 entitled to penalties. These common questions could be resolved using Class Members' schedules, time
14 punches, and payroll records, Defendant's corporate representative's testimony, written communications
15 between Defendant and Class Members, and Class Member declarations.

16 10. Plaintiff alleges that he and other Class Members were employed by Defendant and
17 injured by Defendant's common wage and hour policies and practices, including Defendant's
18 scheduling, timekeeping, minimum wage pay, overtime pay, meal period, and rest break practices and
19 policies. Through documents and information exchanged in discovery, Plaintiff confirmed that these
20 common policies and practices similarly affected Plaintiff and the Class. Plaintiff's counsel extensively
21 reviewed policy documents and Class Members' time and pay records to perform a thorough analysis.
22 Further, Plaintiff's Counsel engaged an expert to quantify the potential exposure using the time and
23 payroll records, and then assessed the risks associated with each of the claims meriting reductions in the
24 likely recovery at trial. Accordingly, Plaintiff's Counsel fully understood the strengths and weaknesses
25 of the claims before the Parties reached a settlement.

26 11. Plaintiff contends that his claims are based on Defendant's common, class-wide policies
27 and procedures, and that liability could be determined on a class-wide basis without dependence on
28 individual assessments of liability.

Exposure Analysis

12. While Plaintiff and his counsel believed and continue to believe this is a strong case for certification, the significant risks and expenses associated with class certification and liability proceedings must be taken into account.

13. In determining whether the amount offered in settlement was reasonable, Plaintiff's Counsel weighed that figure against many risk factors. If Plaintiff continued to prosecute the claims rather than accept a settlement, Plaintiff would have faced deadlines to file a motion for class certification, had to have engaged in more formal written discovery and taken depositions, expended time and resources to resolve disputes, prepared and filed potential dispositive motions and/or discovery motions, and engaged in extensive trial preparation. An adverse ruling at any one of these stages could have prevented the Class from obtaining any recovery. Although the amount of the Class's maximum potential damages – if proven – is substantial, legitimate and serious risks compelled a considerable discount for settlement.

14. Plaintiff's unpaid wages claim was based on the theory that Defendant failed to properly calculate the regular rate when two rates of pay were paid during the same workweek for purposes of overtime, meal period premiums, and sick pay. Specifically, Plaintiff alleged that overtime should have been paid at the blended rate of pay, which is the weighted average for all rates of pay earned in the workweek. Plaintiff's expert calculated that this claim was worth approximately \$27,309. However, Defendant argued that it followed a "rate in effect" plan, with some pay periods actually resulting in an overpayment of wages. Furthermore, Defendant provided evidence that it adjusted its payroll practices by December 2023, in which shift differentials were adjusted to be built into the base pay, thereby cutting off liability for this claim. With evidence refuting Defendant's common failure to adjust the regular rate of pay for all class members, this claim could be difficult to certify. As such, Plaintiff assumed there was a 70% chance of success at class certification and 50% chance of success on the merits at trial, rendering the claim worth about \$9,000.

15. Plaintiff's meal period claim was potentially worth about \$163,636 in light of the violations shown in the records. However, Defendant argued that it maintained compliant written policies and that employees could waive their meal periods. Indeed, Defendant provided evidence of

1 signed meal waivers. Further, it provided evidence that it paid meal period premiums when it was
2 determined that a meal period was not provided, rather than the employee voluntarily missing a lunch.
3 Thus, Plaintiff discounted this claim for the risk that the damages could at least be reduced, and that the
4 claim would be hard to certify with a compliant policy. As such, Plaintiff's counsel believed there was
5 a 60% chance succeeding at class certification and a 40% chance at trial, resulting in a value of about
6 \$40,000.

7 16. Plaintiff alleged that Defendant failed to authorize timely rest breaks due to the
8 productivity requirements imposed on class members. If Plaintiff could prove a 100% violation rate for
9 each shift over 3.5 hours, then damages could reach up to \$664,806. However, Defendant argued that it
10 maintained compliant written rest break policies and that class members could again choose to waive
11 their rest breaks. As such, this claim would have relied on Class Member testimony, making it a riskier
12 claim at class certification and liability stages. Plaintiff's counsel believed there was a 50% chance
13 succeeding at class certification and a 30% chance at trial, resulting in a value of about \$99,000.

14 17. Plaintiff's Counsel also considered the arguable presence of various derivative penalties,
15 and weighed the potential recoveries against probable defenses. Specifically, Defendant could argue that
16 Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code §
17 203. Additionally, Defendant could argue that Plaintiff could not show that Class Members suffered an
18 "injury" as a result of wage statement violations, as required by Labor Code § 226, or that the wage
19 statements correctly reflected the wages paid and owed. Moreover, Plaintiff would not recover any of
20 these derivative penalties if he failed to prove the underlying claims. Although the Class arguably could
21 have seen a payout of \$948,485 for waiting time penalties and \$207,300 wage statement penalties, Plaintiff
22 would not recover any of these derivative penalties if he failed to prove the underlying claims. Thus,
23 Plaintiff discounted these claims assuming a 40% chance of class certification and 30% chance at the
24 merits for both claims, resulting in a realistic value of \$113,818 for the waiting time claim and about
25 \$24,000 for the wage statement claim.

26 18. Additionally, Plaintiff considered that although he did not sign an arbitration agreement,
27 about 130 class members did. If the Court found that these arbitration agreements included a valid class
28

1 action waiver, then the size of the class could be greatly reduced. As such, Plaintiff had to consider the
2 risk to the class of proceeding with litigation if a settlement was not reached.

3 19. The PAGA claim presented even higher hurdles. Although Plaintiff's Counsel found
4 Defendant's exposure could potentially reach approximately \$255,300 under Lab. Code § 2699(f),
5 assuming the initial penalty rate of \$100 for each pay period, Plaintiff would have to prove a violation
6 in every pay period. Most importantly, the Court would have discretion to reduce the PAGA award
7 based on whether the amount of the award would be "unjust, arbitrary and oppressive, or confiscatory."
8 Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by 99% if it so wished. Plaintiff
9 was doubtful he could recover any PAGA penalties, especially in light of Defendant's compliant written
10 policies. Accordingly, Plaintiff could not place a high value on the PAGA penalties, and therefore, the
11 Parties allocated \$15,000 of the Gross Settlement Amount to settle these claims.

12 **Service Award**

13 20. Throughout the case, Plaintiff assisted counsel in gathering the evidence necessary to
14 prosecute the class claims, helping respond to written discovery, maintained regular contact with
15 counsel, was available on the day of mediation and communicated with his attorneys during the day of
16 mediation to answer critical questions, and reviewed the Settlement to make sure it was fair to the Class.
17 None of the other 284 Class Members had shown any interest in bearing the expense and burden of
18 litigating their own claims. No action would likely have been taken by Class Members individually, and
19 no compensation would have been recovered for them, but for Plaintiff's services on behalf of the Class.

20 21. The amount of Plaintiff's requested Service Award was not negotiated until after the
21 Parties agreed to the Gross Settlement Amount and many other terms.

22 22. At the final approval stage, Plaintiff will further support the request for the Service
23 Awards by a declaration that addresses the factors for the award.

24 **Counsel's Qualifications**

25 23. Aegis Law Firm prosecutes wage and hour cases, including class actions on behalf of
26 employees and others who have had their rights violated. Aegis, either on its own, or with co-counsel is
27 currently serving as plaintiffs' counsel of record in dozens of wage and hour and employment class
28 action cases pending in both state and federal court.

1 24. The attorneys working on this case have been appointed class counsel in many cases,
2 through both contested motions and settlement approval motions.

3 25. Aegis has litigated and successfully resolved many wage and hour class action cases
4 involving failure to pay wages and derivative Labor Code claims and penalties. *See, e.g., Roman, et al.*
5 *v. TRM Manufacturing, Inc.*, Riverside Superior Court, Case No. RIC1706458 (class certification granted
6 on December 17, 2020 for all current and former non-exempt workers' on issues of rounding, meal period,
7 and rest period claims); *Gamboa v. Kamran, et al.*, San Bernardino Superior Court, Case No.
8 CIVDS1605273 (class certification granted on September 16, 2019, for factory workers on issues of
9 rounding, automatic deduction of first meal period, and second meal period); *Romo, et. al. v. GMRI, Inc.*
10 *d/b/a/ Olive Garden*, United States District Court Central District of California, Case No. EDCV-12-
11 0715-JLQ (class certification granted for restaurant workers' rest period claims); *Sawyer v. Retail Data,*
12 *LLC*, Orange County Superior Court, Case No. 30-2014-00753767-CU-OE-CXC (unpaid wage and rest
13 break claims for piece rate workers); *Gonzalez v. SFFI Company, Inc., et. al*, San Bernardino County
14 Superior Court, Case No. CIV DS1504287 (unpaid wages, meal period and rest break claims for non-
15 exempt employees); *Antoine v. Riverstone Residential California, Inc., et. al*, Sacramento County
16 Superior Court, Case No. 34-2013-00155974 (rate of pay, on-call time, unpaid wage, meal period, rest
17 break, and expense reimbursement claims for non-exempt employees); *Nguyen v. Pharmerica*, Orange
18 County Superior Court, Case No. 30-2014-00716072-CU-OE-CXC (unpaid wages and unreimbursed
19 expenses for pharmacists); *Orellana v. Westlake*, Los Angeles County Superior Court, Case No.
20 BC539614 (unpaid overtime, meal period and rest break claims for call center employees); *Kent v.*
21 *Mountain View Child Care, Inc.*, Los Angeles County Superior Court, Case No. BC539633 (minimum
22 wage, overtime, meal period, and rest break claims for hospital workers); *Durroh v. East West Bank*,
23 Los Angeles County Superior Court, Case No. BC528860 (overtime claims for failure to include
24 bonuses in regular rate of pay for bank workers); *O'Brien et al. v. Pizza Hut of Southeast Kansas, Inc.*
25 *et al.*, Riverside County Superior Court, Case No MCC 1301030 (meal period and expense
26 reimbursement claims for delivery drivers); *Bell v. Prime Healthcare*, Orange County Superior Court,
27 Case No. 30-2011-00475240-CU-OE-CXC (overtime claims for failure to include shift premiums in
28 regular rate of pay and failure to provide meal and rest periods to hospital workers), *Grana v. Toys R*

1 *US-Delaware, Inc.*, Central District of California, Case No. 2:13-cv-01302-DSF-JCG (bag check claims
2 for unpaid wages and failure to provide meal periods and rest breaks to retail employees); *Mendez v.*
3 *H.J. Heinz Company, L.P., et. al*, Orange County Superior Court, Case No. 30-2013-00644915-CU-OE-
4 CXC (failure to pay all wages to factory workers due to rounding practice); *Fresh & Easy Wage and*
5 *Hour Cases*, Los Angeles Superior Court, Cas No. JCCP 4705 (failure to provide meal and rest periods
6 to supermarket workers); *Lunsford v Stater Bros.*, Riverside Superior Court, Case No. RIC 1104475
7 (failure to provide meal and rest periods to supermarket workers); *Gregg v. Belo*, Riverside Superior
8 Court, Case No. RIC 523697 (unpaid wages and missed meal and rest periods due to misclassification
9 of newspaper delivery employees); *Brown v. Experian Information Solutions, Inc., et. al.*, Orange
10 County Superior Court, Case No. 30-2012-00375163 (misclassification of engineers and similar
11 positions); *Tereth v. Shakey's USA, Inc.*, Los Angeles Superior Court, Case No. BC441359 (failure to
12 provide meal and rest periods to restaurant employees); *Azurin v. Harbor Distributing LLC, et. al.*, Los
13 Angeles Superior Court, Case No. BC421392 (failure to pay overtime wages, provide meal and rest
14 periods, reimburse business expenses to Account Managers); *Caffero v. ABC* (failure to provide meal
15 periods and reimburse expenses of therapists).

16 26. Kashif Haque received his J.D. in 2001 from Washington University School of Law.
17 While in law school, Mr. Haque was a member of the Law Review Editorial Board, author of an article
18 published in the Law Review, Executive Board Member of Moot Court, and a member of the Dean's
19 List. He received a Bachelor's of Science in Business Administration from the University of Central
20 Missouri in 1998, where he was a member of the Beta Alpha Psi honors fraternity.

21 27. Since 2004, Mr. Haque has exclusively focused his practice on plaintiff's employment
22 litigation with a specific focus on wage and hour claims. Since then, he has represented over 500,000
23 employees with their employment claims, many of which included wage and hour claims. He has been
24 appointed class counsel in approximately 100 cases and is currently litigating over 150 employment
25 wage and hour class action cases.

26 28. Mr. Haque authored a book on employment litigation strategies with West Publishing
27 and has been invited to speak on class action and wage and hour issues on numerous occasions. He has
28 spoken at seminars by the State Bar of California, California Employment Lawyer's Association

1 (CELA), Orange County Bar Association, and various other CLE providers. Mr. Haque is the former
2 Chair for the Labor and Employment Section of the Orange County Bar Association. He was selected
3 as one of the Top 50 Attorneys in Orange County by Super Lawyers for 2017 and 2019. He has been a
4 Super Lawyer for every year from 2009 to the present. OC Register/Metro has selected him as one of
5 the Top 5 Employment Lawyers in Orange County for every year the list was published, from 2012 to
6 2018.

7 29. Samuel A. Wong is a graduate of University of Pennsylvania Law School, where he
8 received his J.D. in 2001. Mr. Wong received a Bachelors of Arts in Sociology from the University of
9 California at Berkeley in 1997.

10 30. After graduation from law school in 2001, the same year in which Mr. Wong took and
11 successfully passed the California Bar Exam, Mr. Wong moved to back to Los Angeles, California
12 where he was employed at Paul Hastings, Janofsky & Walker, LLP. While working in the employment
13 department at Paul Hastings, he was involved in numerous wage and hour class action lawsuits and
14 other employment related matters.

15 31. Mr. Wong became a founding partner of Aegis Law Firm, PC in 2003, and focused his
16 practice on plaintiff's side employment work. Throughout his years of practice, Mr. Wong represented
17 and obtained successful outcomes for his clients, including awards through arbitration and trial.

18 32. Mr. Wong is a member of the Orange County Bar Association, Orange County Trial
19 Lawyers Association, and California Employment Lawyers Association.

20 33. Mr. Wong was chosen by Law and Politics Magazine as a Super Lawyer Rising Star,
21 representing one of the top 2.5% of lawyers under 40 in Southern California in 2011, 2012, 2013, and
22 2014. He was chosen by Law and Politics Magazine as a Super Lawyer in 2015, 2016, 2017, and 2018.
23 Mr. Wong was also chosen as a Top Attorney in the field of employment law by OC Metro in 2014,
24 2015, and 2018.

25 34. Jessica L. Campbell is a partner at Aegis Law Firm. Ms. Campbell was admitted to the
26 California Bar in December of 2011, and received her J.D. from Santa Clara University School of Law
27 and her B.A. from the University of California, Berkeley. Ms. Campbell has dedicated her career to
28 plaintiffs' side class actions. Ms. Campbell's experience includes successful work on class action

1 appeals, class certification motions, and class settlements. She was chosen by Law and Politics
2 Magazine as a Super Lawyer Rising Star, representing one of the top 2.5% of lawyers under 40 in
3 Southern California for several years.

4 35. I am a Senior Associate at Aegis Law Firm. I was admitted to the California Bar in
5 December of 2019. I received my J.D. from Chapman University Dale E. Fowler School of Law where
6 I graduated cum laude. While in law school, I was a recipient of numerous honors, including Merit
7 Scholarships and CALI Awards, and externed for Judge Di Cesare of the Orange County Superior Court.
8 I received my B.A. from the University of California, Davis. Prior to joining Aegis Law Firm, I worked
9 at a midsize civil defense firm. I have been with Aegis Law Firm since 2020, where I have primarily
10 represented plaintiffs in wage and hour class and representative actions. My experience includes
11 successful work on class certification motions, summary judgment motions, and class settlements.

12 36. Aegis Law Firm has performed significant work and expended litigation costs in
13 prosecuting the matter with no guarantee of any payment.

14 37. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award
15 of attorneys' fees and litigation costs.

16 **Exhibits**

17 38. A true and correct copy of the Class Action and Paga Settlement Agreement is attached
18 hereto as **Exhibit 1**.

19 39. A true and correct copy of the PAGA notice my office sent to the LWDA and Defendant
20 on September 21, 2023 is attached hereto as **Exhibit 2**.

21 40. A true and correct copy of the LWDA's confirmation that my office submitted the Joint
22 Stipulation of Settlement is attached hereto as **Exhibit 3**.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct. Executed on March 19, 2025 at Irvine, California.

25
26 _____
27 Kristy R. Connolly
28