Colby Qualls (Cal. Bar No. 350634)
cqualls@foresterhaynie.com
FORESTER HAYNIE PLLC
3600 Lime St., #111
Riverside, CA 92501 &
10800 Financial Centre Pkwy, Suite 510
Little Rock, Arkansas 72211
Telephone: (214) 210-2100
Attorneys for Plaintiffs and Collective Action Members

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

LAURA CARLTON, on behalf of herself and all others similarly situated, KENNISHA MORGAN, on behalf of herself and all others similarly situated and on behalf of the State of California and all aggrieved employees,

Plaintiffs,

vs.

UNIVERSAL PROTECTION SERVICE, LP d/b/a ALLIED UNIVERSAL SECURITY SERVICES and UNIVERSAL PROTECTION SERVICE, LLC d/b/a ALLIED UNIVERSAL SECURITY SERVICES,

Defendants.

Case No. 8:24-cv-00751-JGB(SPx)

DECLARATION OF ATTORNEY COLBY QUALLS

Attorney Colby Qualls hereby swears and affirms to the following under the penalties of perjury:

1. My name is Colby Qualls. I am over the age of 18. I am the lead

attorney representing Plaintiffs in the above-entitled matter. The statements set forth in this declaration are made of my own personal knowledge and if called as a witness, I could and would testify competently to the matters stated below.

2. I am an attorney, in good standing, and I am admitted to practice law in the Fifth Circuit Court of Appeals, the Sixth Circuit Court of Appeals, and various District Courts throughout the nation, including federal courts in Arkansas, California, Colorado, Illinois, Michigan, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas, as well as the U.S. Court of Federal Claims. I am licensed to practice law in the state courts of Arkansas and California.

3. I am an attorney in the law firm of Forester Haynie PLLC ("FH") headquartered in Dallas, Texas, and, along with Jay Forester, co-lead FH's Wage & Hour practice.

4. FH is a plaintiff's advocacy law firm that practices nationwide. Our employment law practice focuses primarily on wage and hour claims brought under federal and state law exclusively brought on behalf of plaintiffs, including complex multi-plaintiff wage and hour litigation.

5. I began practicing primarily in wage and hour litigation as an associate attorney at Sanford Law Firm ("SLF") in late 2020. Since that time, my practice has been limited almost exclusively to litigating wage and hour disputes on behalf of plaintiffs. As an associate attorney at SLF, I would manage anywhere from approximately 50-60 active wage and hour cases in various federal venues at any

time. While practicing at SLF, the firm recognized me on multiple occasions for "Most Cases Settled" and "Highest Settlement Value" within our practice at the firm. I was an associate at SLF until I accepted an offer to work at FH in mid 2023. At FH, I now co-lead its Wage & Hour practice along with Jay Forester as a Partner Attorney.

6. My practice has focused almost exclusively on litigating multi-plaintiff wage and hour claims under federal and state law. I have served as plaintiff's counsel in more than 100 wage and hour cases, including several class and/or collective wage and hour lawsuits. The following matters are cases where courts have approved collective or class settlements that I have negotiated either under the FLSA or Rule 23's heightened standards:

- *Massey v. Jenkins Memorial Children's Center and Jenkins Industries Inc.,* Case No. 4:22-cv-00148-KGB (E.D. AR);
- *Norvell, et al. v. Dedman's Sanitation, et al.,* Case Nos. 3:21-cv-00233-KGB & 3:24-cv-00127-KGB (E.D. AR);
- *Palmer v. 7-Eleven, Inc.,* Case No. 3:24-cv-00902 (M.D. TN);
- *Christianson v. Snowy Hollow, Inc.*, *et al.*, Case No. 3:24-cv-290-BLW (D. ID);
- *Wilcox v. Cutting Edge Pizza Inc., et al.,* Case No. 25001420CA (Fla. Cir. Court, Charlotte County);
- *Lawman v. MV Foods, LLC, et al.*, Case No. 4:24-cv-01053-RWS (E.D.

Mo.);

- *Slendak v. Lead Dog Pizza, et al*, Case No. 3:24-cv-03988-MGL (D. S.C.);
- *Halterman v. The Renfrow Group, LLC,* Case No. 5:25-cv-00100-D-BM (W.D. N.C.);
- *Stansbury v. Barrick Enterprises, Inc., et al.*, Case No. 1:22-cv-00342-YK (M.D. Pa.);
- *Guynes v. Lakeside Community Committee*, Case No. 1:22-cv-00784-VMK (N.D. Ill.);
- *Ware v. Shake Shack Enterprises, LLC,* Case No. 1:20-cv-07071 (N.D. Ill.);
- *Park v. B & M Management Co.*, Case No. 2:21-cv-00509-MHT-KFP (M.D. Ala.);
- *Quinn v. Spirit Manufacturing, Inc.*, Case No. 3:21-cv-0031-BSM (E.D. AR); and,
- *Washington v. Pipelife Jet Stream, Inc.*, Case No. 5:22-cv-05165-CDC (W.D. AR).

7. Based on my qualifications and FH's experience, including in *Moore et al. v. Universal Protection Service LP*, Case 5:19-cv-02124-JGB(SPx) (C.D. CA) ("*Moore*") (where this Court approved of a settlement whose terms are substantially mirrored in this Agreement), counsel involved in this case were able to hyper focus

efforts on the data and procedures necessary to efficiently evaluate resolution of the claims at issue following an initial dispute regarding the appropriate court or tribunal to execute jurisdiction over the claims at issue.

8. I thoroughly investigated the claims advanced in this matter. Prior to negotiations that resulted in the settlement this declaration is filed to support, Defendant produced data that our side reviewed and then converted into damage calculations. In my opinion, the settlement reached in this case constitutes a fair and reasonable compromise of a *bona fide* dispute, considering all of the vigorously contested legal and factual issues, and considering the possible value of the claims balanced against the effort, expense, delay and risk of further litigation and possible appeals. We intently calculated possible damages, assessed the best-case and worst-case scenarios and weighed the likelihood of various potential outcomes. Based on this review, we issued an initial proposal to resolve the claims of covered opt-ins at mediation for approximately $9,500,000.00. Thus, the settlement ultimately negotiated exceeds a 26% recovery of those alleged damages, which is well in-line with an amount that justifies approval. *See, e.g.*, *Selk v. Pioneers Memorial Healthcare Dist.*, 159 F.Supp.3d 1164, 1175 (S.D. Cal. 2016) (listing cases) (26% or greater recovery sufficiently reasonable in wage and hour dispute). Our negotiations were also informed by the fact that during the course of these discussions Defendant provided evidence that the Plaintiffs on average would be required to work multiple hours off-the-clock each week to claim any damages under the FLSA, and that

around August of 2023, Defendant took companywide remedial measures to further reduce their potential exposure. Based on our assessment of these defenses, we calculated various scenarios where Defendant's total exposure might have been under 7 figures, and in which case, the approximately $1,241,750 made available in the settlement even after deductions for all amounts not set aside for payments to the Opt-In Plaintiffs are made, is an exceptional outcome.

9. Additionally, the settlement of this matter was informed by the settlement terms in *Moore* that were ultimately and previously approved by this Court. That matter was resolved on behalf of approximately 29,107 individuals while this dispute covers fewer than the 10,000 (approximately 9,124) remaining individuals who have affirmatively consented to bring similar claims. Thus, that this matter, which covers less than 1/3 (approximately 31%) of the claimants covered in *Moore*, resolved for greater than 50% of the funds negotiated in the *Moore* settlement is indicative of the reasonableness of this proposed settlement. Put another way, the FLSA fund in *Moore* resulted in an average payment of $52 while the $1,241,750 fund made available for the 9,124 opt-ins here is a $136.10 average.

10. In my opinion, the settlement reached in this case constitutes a fair and reasonable compromise of a *bona fide* dispute, considering all of the vigorously contested legal and factual issues, and considering the possible value of the claims balanced against the effort, expense, delay and risk of further litigation and possible appeals. I assessed the best-case and worst-case scenarios and weighed the likelihood

of various potential outcomes. The settlement reflects a reasonable valuation of these possible risks and rewards.

11. On March 2, 2026, the Parties engaged in mediation with Allison Eckstrom, Esq. That mediation resulted in an initial impasse that was only resolved through a mediator's proposal. A Memorandum of Understanding was then entered into the following month, and eventually the Settlement Agreement now submitted to the Court. As the Parties followed the procedures from *Moore*, this Agreement was also approved by an Arbitrator on August 10, 2026.

12. Though our private agreements with Plaintiffs provide for a reimbursement of litigation costs in addition to payment of attorney's fees, FH is not separately seeking an order to recover any of its expenses apart from its fee request in an effort to maximize the funds made available for the plaintiffs and in light of additional costs now projected by the third-party administrator. The greatest expense has been and will be incurred by the third-party administrator, CAC Services Group, which initially estimated that the administration of this settlement could be accomplished for approximately $110,000.00-$150,000.00. This estimate, along with FH's costs, formed the basis of the $135,000.00 cost provision in the Agreement. More recently, the administrator has informed us that the estimate assumed a smaller notice process than the Parties have elected to pursue and now estimates that total costs will be at least $235,000, which is still proportionately less than the approximate $465,000 in comparable administrative expenses that were incurred and

approved in *Moore*. *See Moore*, Dkt. #264 ¶56. To help finalize the settlement now, maximize amounts available for Class Members, and minimize potential delay, Plaintiff's counsel has agreed to not request in excess of $733,250.00 in fees, which makes our total fees request less than 30% (29.33%) of the total settlement.

13. In the settlement, Plaintiffs seek attorney's fees primarily as a percentage of the fund. This is common and permissible in class and collective action cases. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998), *abrogated on other grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). While courts may award attorneys' fees either as a percentage of the fund or pursuant to the lodestar method, the arbitrator in this case approved fees in the settlement agreement as a percentage of the fund and without requiring a lodestar analysis. This is a common approach. *See, e.g.*, *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984); *Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990) (common fund fee is generally "calculated as a percentage of the recovery"). In this Circuit, the appropriate fee percentage is based on "all of the circumstances of the case." *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048 (9th Cir. 2002) (recognizing that benchmark of 25% can be a starting point for "megafund" cases in which the gross settlement amount is between $50 million – $200 million, though a court must consider all of the circumstances of the case); *see also Bennett v. SimplexGrinnell LP*, No. 11-cv-01854-JST, 2015 WL 12932332, at *6 (N.D. Cal. Sept. 3, 2015) (38.8% of a $4.9 million common fund); *Smith v. CRST Van Expedited, Inc.*, No. 10 Civ. 1116,

2013 WL 163293, at *5 (S.D. Cal. Jan. 14, 2013) (33 1/3 % fee, and citing wage and hour class actions awarding fees of 40% of a common fund). Under the Settlement, Counsel requests attorney's fees not to exceed 1/3 of the Gross Settlement Amount and initially anticipated costs in the amount of $135,000.00. This fee is a reduction from the 40% that Plaintiffs originally agreed to, that was approved in *Moore*, and in a continued effort by Counsel to make more funds available for Plaintiffs has subsequently been reduced even further to 29.33% based on the administrator's revised costs estimate.

14. I have personal knowledge of the time spent litigating this case. I am familiar with the fees that were incurred in connection with prosecuting the case and with the hourly rates charged by this and other firms for legal services similar to those rendered in this case. To the extent this Court wishes to conduct a lodestar crosscheck, Plaintiffs' counsel has attached the firm's lodestar, attached hereto as **Exhibit A**. Exhibit A is a summary of the hours, billing rate, and total fee for each submitted timekeeper's work, rounded to the nearest one-tenth of an hour. Counsel's work includes investigating the underlying merits of the claim, representing nearly 10,000 opt-in plaintiffs, conducting informal discovery including discussions with hundreds of these opt-ins, calculating and analyzing detailed damage models, participating in settlement negotiations, engaging in motion practice, and communications with numerous opt-in plaintiffs. Counsel used billing judgment when generating the lodestar attached to this declaration. In totaling the billing record

in preparation for this Declaration, I did not include numerous billings that I deemed duplicative or excessive. In reviewing the billing record in preparation for this Declaration, I also deleted staff and associate attorney billings, as well.

15. Generally, the "norm" for partner level employment lawyers with similar experience and nationwide practices fall within the $700 to $900 per hour range and wage and at $450 to $650 per hour for the associate level range. *See, e.g., Jose Ramos v. Digit. Prosthodontics, LLC, et al.,* No. 8:25 2052-CDA, 2025 WL 3523116, at *5 (D. Md. Dec. 8, 2025) (approving attorney billing rate of $695 per hour in comparable litigation); *Chin v. The Tile Shop LLC,* Case No. 13-cv-02969 (D. Mn., 2017) (approving J. Forester at an associate rate of $480/hour nearly a decade ago). FH Partners have regularly been approved at an effective rate of $750/hour in *Christianson v. Snowy Hollow, Inc. et al.,* Case 3:24-cv-00290-CWD (D. ID.), and again recently in *Wilson v. Marlboro Pizza, et al.*, Case 8:22-cv-01465 (D. Md.). The time submitted includes entries for Partners Jay Forester and Matthew McCarley at a rate of $750/hour and myself calculated at a rate of $600/hour, though I was recently promoted to a Partner Attorney position at FH.

16. Despite receiving no payment for their work to date, the Partners at FH and myself have collectively spent over 300 hours advocating on behalf of Plaintiffs and the Class Members. As reflected in the attached Exhibit A and accounting for the fact that all staff and other associate billings have been excluded, this time equates to fees incurred in this case in excess of $220,000, a multiplier of less than 3.5, and

within the range that courts have found to be reasonable. *See Spano v. Boeing Co.*, Case No. 06-CV-743-NJR-DGW, 2016 WL 3791123, *3 (S.D. Ill. Mar. 31, 2016) ("in risky litigation such as this, lodestar multipliers can be reasonable in a range between 2 and 5"). I estimate that Plaintiffs' counsel will bill an additional 100 hours or more to this matter for addressing any questions or concerns that arise during the distribution of the settlement proceeds to the Class Members, which, along with additional reductions already made and discussed, would further reduce any potential multiplier effect on our firm's fees.

17. In addition to myself, Exhibit A details time spent on this matter by Jesse ("Jay") Forester. Jay Forester is an attorney, in good standing, and admitted in the Supreme Court of the United States, the Fifth, Sixth, and Tenth Circuits, and various District Courts throughout the nation. Mr. Forester is licensed to practice law in the state courts of Texas and the D.C Court of Appeals. He is a partner in the law firm of Forester Haynie PLLC and, along with Colby Qualls, co-leads FH's Wage & Hour practice. He has received both a "Top 40 Under 40 Attorney" and "Best Lawyers" distinction by D Magazine in the "Class Actions" category, among other distinctions. Since 2014, his practice has focused almost exclusively on litigating multi-plaintiff wage and hour claims under federal and state law, he has served as plaintiff's counsel in more than 100 class and/or collective lawsuits and has regularly been approved at an effective rate of $750/hour in wage and hour litigation, including in this Circuit. *See e.g., Christianson v. Snowy Hollow, Inc. et al.,* Case

3:24-cv-00290-CWD (D. ID.); *see also, Wilson v. Marlboro Pizza, et al.*, Case 8:22-cv-01465 (D. Md.) (where Mr. Forester was approved at a rate of $750/hr in FLSA litigation just months ago).

18. In addition to myself, Exhibit A also details time spent on this matter by Matthew McCarley. Matthew R. McCarley is an attorney, in good standing, and licensed to practice law in the United States Supreme Court, the Court of Federal Claims and the 5th Circuit Court of Appeals. He is also admitted to practice in numerous Federal District Courts throughout the nation, has been a partner and head of litigation at Forester Haynie PLLC throughout the duration of this case and was also lead counsel of record for this dispute when it was initially filed in Colorado. When this case was transferred to California, I took over as lead counsel of record.

19. Along with Jay Forester, Mr. McCarley was recently approved at a rate of $750.00/hour in litigation brought under the FLSA, including in this Circuit. *See e.g.*, *Christianson v. Snowy Hollow, Inc. et al.,* Case 3:24-cv-00290-CWD (D. ID.); *see also, Wilson v. Marlboro Pizza, et al.*, Case 8:22-cv-01465 (D. Md.). Mr. McCarley has been recognized by as a lifetime member of Million Dollar and Multimillion Dollar Advocates Forum, Lawdragon 500 Leading Plaintiff Consumer Lawyer, and National Trial Lawyer – Top 100 Trial Lawyer in Texas the Texas Verdicts Hall of Fame– 2019. He has held leadership positions in the following consolidated litigations: Plaintiff's Executive Committee In re Cook IVC Filters Products, MDL 2570, Plaintiff's Steering Committee In re Bard IVC Filters

Products, MDL 2641, the Plaintiff's Steering Committee In re Cordis IVC Filters Products, and Plaintiff's Steering Committee In re Bard Hernia Mesh Litigation-Rhode Island, Fee Committee-Texas Opioid MDL. As a member of the fee committee in the Texas Opioid MDL his fee for $1000/hr was approved by the 152nd Judicial District Court in Harris County, Texas.

20. This firm was retained by Plaintiffs on a contingency fee basis. Therefore, the firm has not received any payment for our time spent litigating this case since it began. We as Class Counsel undertook the financial risk of unsuccessful litigation. Moreover, representing Plaintiffs necessarily prevented FH from accepting other work as counsel were occupied with this case. The contingent nature of this litigation makes our request appropriate.

21. Additionally, the LWDA was timely provided notice of this dispute and Settlement. In light of the significant complexity of this case, the bevy of potential issues that could lead to a limited or zero-dollar recovery for the Plaintiffs and opt-in plaintiffs, and in light of the substantial recovery given the claims at issue in the lawsuit, Class Counsel believes the proposed Settlement to be fair and reasonable.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 16, 2026

*<u>/s/ Colby Qualls</u>*________
COLBY QUALLS