Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
S. Phillip Song (SBN 326572)
Stanley J. Park (SBN 334747)
**MOON LAW GROUP, PC**
725 S. Figueroa St., Suite 3100
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kmoon@moonlawgroup.com
afeghali@moonlawgroup.com
psong@moonlawgroup.com
spark@moonlawgroup.com

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

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| MARK ALCARAZ, individually, and on behalf of all others similarly situated,<br><br>Plaintiff,<br><br>vs.<br><br>DELTA SCIENTIFIC CORPORATION, a California corporation; and DOES 1 through 10, inclusive,<br><br>Defendants. | Case No.: 23STCV31277<br><br>[Hon. David S. Cunningham III, Dept. 11]<br><br>**SUPPLEMENTAL DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698, ET SEQ.) SETTLEMENT AGREEMENT**<br><br><u>PAGA APPROVAL HEARING</u><br>Date: March 2, 2026<br>Time: 10:30 a.m.<br><br>Complaint Filed: December 21, 2023<br>FAC Filed: March 14, 2024 |

SUPPLEMENTAL DECLARATION OF KANE MOON

I, KANE MOON, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all Courts of the State of California and am one of the attorneys of record for Plaintiffs Mark Alcaraz and Isaiah Torres ("Plaintiffs") and the aggrieved employees.

2. I have personal knowledge of the matters set forth herein and could competently testify to the facts described herein.

3. On June 9, 2025, Plaintiffs filed the Declaration of Kane Moon in Support of Plaintiffs' Motion for Approval of Private Attorneys General Act ("PAGA") Settlement Agreement ("Moon Decl.") in support of Plaintiffs' Motion for Approval of PAGA Settlement Agreement. The PAGA Settlement (the "Settlement") entered into by and between Plaintiffs and Defendant Delta Scientific Corporation ("Defendant") (together with Plaintiffs, the "Parties") was attached as Exhibit 1 to the Moon Decl.

4. On February 10, 2026, the Court directed the Parties to remove reference to "heirs" from the release in the Settlement. The Parties modified the released language in an Addendum to PAGA Settlement Agreement (the "Addendum"). A true and correct copy of the Addendum is attached hereto as **Exhibit 1**.[1] Plaintiff's Counsel submitted the Addendum to the California Labor and Workforce Development Agency (the "LWDA"). A true and correct copy of the email confirmation from the LWDA is attached hereto as **Exhibit 2**.

5. The Court also directed Plaintiffs' Counsel to provide an exposure analysis that accounts for the number of pay periods in the maximum and discounted estimates.

6. There are an estimated 178 Aggrieved Employees who collectively worked a total of 5,584 pay periods. (*See* Settlement, ¶ 4.1.)

[1] At the time of this filing, Defendant and Defendant's Counsel have not yet signed the Addendum. Plaintiff's Counsel will file the fully executed Addendum, including a declaration from Defendant or Defendant's Counsel regarding the status of the escalator clause, as soon as received and prior to the PAGA Approval Hearing.

7. Plaintiffs' Counsel originally estimated Defendant's exposure using a penalty amount of $100 for each Aggrieved Employee. (Moon Decl., ¶ 26.) Based on 178 Aggrieved Employees, Plaintiffs' Counsel estimated the low end of Defendant's exposure could be approximately $17,800.00 (178 x $100 penalty). (*Id.*) Plaintiffs' Counsel then estimated the high end of Defendant's exposure based on eight theories of recovery, which resulted in $142,400.00 (178 employees x $100 penalty x 8 theories of recovery). (*Id.*) However, after further review and based on Labor Code § 2699(f)(2)(A), which provides for a $100 penalty for each aggrieved employee *per pay period*, Plaintiffs' Counsel believe that an exposure analysis that includes the number of pay periods may provide a more reasonable estimate of Defendant's potential exposure. Even after accounting for the number of pay periods, Plaintiffs' Counsel believe that the Settlement is still a strong and fair recovery for the Aggrieved Employees.

8. Based on the estimated number of PAGA pay periods, Plaintiffs' Counsel reevaluated Defendant's both maximum and discounted potential exposure. Although records revealed identifiable for Plaintiffs' meal period claims, the records themselves did not provide strong support for the off-the-clock work, rest period, and expense reimbursement claims, and derivative penalties for those claims. Despite some support for these claims based on Defendant's policy documents provided, these claims are predominantly testimony based.

9. Because Defendant did not require employees to record rest periods, there are no records to establish the rest period claim on the merits. Additionally, there are no records to establish the off-the-clock work claim or the reimbursement claim on the merits. Rather, proof of these claims would need to be supported by declarations from Aggrieved Employees regarding missed rest periods, off-the-clock work, and reimbursements as the records themselves cannot demonstrate what breaks were missed, when, and why, what purchases Aggrieved Employees made for work, if any, and they cannot demonstrate the time, if any, Aggrieved Employees spent working off the clock. Additionally, the declarations could potentially reveal that each Aggrieved Employee had a different experience. The individualized nature of their employment experience and the numerosity of employees affected present significant risk with manageability and proof on the merits.

10. As to the meal period claims, a review of the time/pay records showed a violation rate of 99.1%. After accounting for Defendant's valid meal waivers, the number of violations were offset by only 345 such that the violation rate remained 99.1%. However, Defendant nonetheless contended that many meal breaks were taken and, where a violation appears, it was a result of the employee voluntarily choosing to forego a meal period, to take it after the end of the fifth hour, or to stop his or her break early to return to work. Moreover, proof of this claim would require declarations from Aggrieved Employees and obtaining such declarations potentially could reveal that each Aggrieved Employee had a different experience with respect to meal periods. Defendant also argued that the fact that it had its employees sign waivers demonstrates that it did not intentionally fail to provide compliant meal periods.

11. A claim-by-claim penalty calculation is overly optimistic as it presumes Plaintiffs would be able to stack the penalties, although penalty stacking is not expressly permitted by PAGA. Rather, without either (i) a prior finding by the LWDA or a court within the past five years that the employer violated PAGA or (ii) evidence that the employer's conduct was malicious, fraudulent, or oppressive, PAGA only provides for a maximum $100 penalty for each pay period. (Lab. Code § 2699(f)(2)(A)–(B).) Moreover, Plaintiffs' Counsel believe it would be unrealistic to expect the Court would award a penalty-stacked exposure given the discretionary nature of awarding penalties and given Defendant's defenses, including that any failure to pay premiums or for off-the-clock work was not knowingly or willfully done, and additionally, to the extent employees received wage statements that were allegedly inaccurate, employees suffered no actual resulting damage or harm. Moreover, awarding the full penalties amount would likely raise Due Process concerns.

12. Thus, Plaintiffs' Counsel believe it is reasonable to assess penalties on a $100 civil penalty per pay period basis pursuant to Labor Code § 2699(f)(2)(A) for each of the estimated 5,584 pay periods at issue. Accordingly, Plaintiffs' Counsel estimate Defendant's maximum PAGA exposure to be $558,400 ($100 x 5,584). The Gross Settlement Amount of $180,000 represents approximately 32% of the maximum exposure ($180,000 / $558,400).

13. Based on the discovery, Defendant's arguments at mediation and continued settlement discussions, an understanding that the claims are heavily dependent on the unlikely participation by Aggrieved Employees and their varying employment experience, and other important considerations discussed in the Moon Decl. at paragraphs 14-15, which included a discussion of Defendant's defenses and the potential that Defendant may challenge Plaintiffs' standing as Aggrieved Employees, it is reasonable to discount the maximum exposure by 50%, which results in a discounted exposure of $279,200 ($558,400 * 50%). As a result, the Gross Settlement Amount of $180,000.00 represents approximately 64% of the discounted exposure ($180,000 / $279,200). Accordingly, the Settlement is a strong and fair recovery for the Aggrieved Employees

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

Executed on February 17, 2026, at Los Angeles, California.

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Kane Moon