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Attorneys for Plaintiff MARQUINN FOSTER,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

MARQUINN FOSTER, on behalf of the
general public as private attorney general,

Plaintiff,

v.

WENDY'S OF THE PACIFIC, INC.; and
DOES 1-50, inclusive,

Defendants.

Case No.: BCV-24-103322

**DECLARATION OF PLAINTIFF
MARQUINN FOSTER IN SUPPORT OF
MOTION TO APPROVE PAGA
SETTLEMENT, AND ENTERING
JUDGMENT THEREON**

DECLARATION OF MARQUINN FOSTER

I, MARQUINN FOSTER, declare as follows:

1. I am over the age of eighteen. The following is based upon my personal knowledge, and if called as a witness, I could and would competently testify regarding the statements in this Declaration.

2. I was employed by Defendant Wendy's of the Pacific, Inc. ("Defendant"), as a non-exempt employee in approximately November 23, 2020 with the titles of Cashier, Griller, and Manager, until my separation from Defendant's employ in approximately June 8, 2024.

3. Prior to filing this lawsuit, I searched for an attorney and found James Hawkins, APLC. I never knew James Hawkins, APLC before my consultation with them. After my consultation, I asked them to represent me in bringing a PAGA action on behalf of myself and all other similarly situated non-exempt employees of Defendant.

4. I knew the alleged Labor Code violations complained of in the complaint not only happened to me, but also happened to the other employees of Defendant's that I worked with. I wanted to help the other non-exempt workers vindicate their rights, so I decided to bring this lawsuit that we filed on or about October 4, 2024 (I submitted notice to the LWDA on July 24, 2024).

5. I believe my situation is similar and has been similar to all other non-exempt employees like me who worked for Defendants during the PAGA period. The Complaint which I brought against Defendants, alleged PAGA Representative claims for: (a) failure to pay wages including minimum wages & overtime; (b) failure to provide meal periods for every work period exceeding more than five (5) or ten (10) hours per day and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a rest period; (d) failing to timely pay all wages earned and owed upon separation from Defendant's employ; (e) failing to provide accurate itemized wage statements; and (f) failing to reimburse necessary business expenses.

1 6. I believe that my interests have been and continue to be in alignment with the
2 Aggrieved Employees, and I am willing to continue to pursue and prosecute their representative
3 claims against Defendant in this litigation. I believe I do not have any interests which are against
4 the interests of the PAGA Settlement Members, and I will continue to do what is best for all the
5 PAGA Settlement Members rather than myself, as I have done from the beginning of this case.

6 7. My relationship with James Hawkins, APLC is purely an attorney client
7 relationship and there are no other business, familial or social relationships between my attorney
8 and myself. In addition, I do not have any relationship with Defendants other than being a former
9 employee of Defendant. For these reasons, there is no conflict of interest between myself, my
10 attorney, between Defendant, and myself or between the PAGA Settlement Members and myself.

11 8. As the PAGA Representative in this case, I participated in every aspect of the
12 litigation and have been apprised of its progress. I believe I have maintained the best interests of
13 the Aggrieved Employees while performing my PAGA Representative duties. I have participated
14 in many interviews and conferences with my counsel regarding the conduct and settlement of this
15 matter.

16 9. My counsel has informed me that this information, along with the details and
17 support I provided for the claims alleged in this matter, were very important in convincing
18 Defendant to negotiate the settlement now before the Court for approval. I have also provided
19 many documents to my counsel in support of the PAGA claims, have helped my attorneys with
20 preparing written questions and what documents to ask for, and I have invested a lot of time and
21 effort in performing my duties on behalf of the PAGA Settlement Members. I also conducted
22 numerous meetings with my counsel to prepare for and discuss Defendant's information requests
23 relating to discovery. I was also available and helpful to the private mediation of this matter,
24 which took place over the course of a full day.

25 10. After reviewing the Settlement Agreement and speaking with my counsel about it,
26 I agreed to sign it on behalf of myself and all the other PAGA Settlement Members. I signed the
27 Settlement because I believe the Settlement obtained in this case on behalf of the PAGA
28 Settlement Members is very fair, sufficient, and reasonable in view of the facts I know and have

1 been made aware of, and due to the risk of going through further litigation. I believe the average
2 payouts for the PAGA Settlement Members are very reasonable considering all the facts and
3 evidence and risks moving the case forward to trial.

4 11. I also understand and believe to be fair the settlement allocation formula and
5 believe it fairly accounts for the individual settlement payments based on the strengths and
6 weaknesses of the various alleged claims and also considering the individual compensation and
7 pay rates for the various class members over the settlement period.

8 12. I also understand my counsel will request that I be awarded a Service Award of
9 \$5,000.00 for my efforts as a PAGA Representative, and that this additional payment is not
10 guaranteed, but must be approved by the Court. I believe the requested enhancement payment is
11 fair and reasonable based upon the results we have achieved for the PAGA Settlement Members
12 and because of the tasks I have performed on their behalf, including:

- 13 • Compilation of many documents for my attorneys;
- 14 • Review of many documents with my attorneys;
- 15 • Conducting preparation with my attorneys and participating in responding to
16 information to formal and informal discovery requests;
- 17 • Availability and participating in a full day of private mediation of this case;
- 18 • Several telephone conferences with my attorneys and their representatives; and
- 19 • Participation in the approval settlement process;

20 13. I estimate that I have spent approximately 38 hours helping to prosecute this
21 matter.

22 14. I also believe the requested enhancement payment is fair and reasonable because
23 my decision to accept the risk of being a PAGA Representative in a PAGA action under the
24 Labor Code may affect my future ability to get other jobs in this industry. I also understood and
25 accepted the risk of potentially being liable for the opposing parties' costs and attorneys' fees if I
26 was unsuccessful in this lawsuit. I voluntarily assumed these real and large risks and the case
27 would not have been brought without me and the other class members. I believe the Aggrieved
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1 Employees will receive a good benefit by resolving their claims against Defendant under the
2 terms of the settlement.

3 15. I declare under penalty of perjury under the laws of California that the foregoing is
4 true and correct. Executed on this 3rd day of June at Bakersfield, California.

5 Signed by:
6 *Marquinn Foster*
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7 MARQUINN FOSTER
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