

1 MATTHEW RIGHETTI (SBN 121012)
JOHN GLUGOSKI (SBN 191551)
2 **RIGHETTI GLUGOSKI, P.C.**
2001 Union Street, Suite 400
3 San Francisco, CA 94123
Tel. No.: (415) 983-0900
4 matt@righettilaw.com
jglugoski@righettilaw.com
5

Attorneys for Plaintiff,
6 EDUARDO SANDOVAL

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

10 EDUARDO SANDOVAL on behalf of himself
11 and all aggrieved employees,

12 Plaintiff,

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14 vs.
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17 HOME DEPOT U.S.A., INC.; and DOES 1
18 through 25, inclusive,

19 Defendants.
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CASE NO.: 22CV015414

[Assigned for All Purposes to the Hon. Karin Schwartz]

**DECLARATION OF JOHN GLUGOSKI IN
SUPPORT OF MOTION FOR APPROVAL
OF PAGA SETTLEMENT AND ENTRY OF
JUDGMENT**

Date: May 15, 2024

Time: 3:00 p.m.

Dept: 20

Rene C. Davidson Courthouse
1225 Fallon Street
Oakland, CA 94612

Reservation ID: 765149662728

1 I, **JOHN GLUGOSKI**, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the State of California with Righetti
3 Glugoski, P.C. (Formerly Righetti Law Firm P.C.), attorneys of record for Plaintiff. I have personal
4 knowledge of the following facts and if called as a witness would testify as follows:

5 **EDUCATION AND EXPERIENCE**

6 2. I am an attorney duly licensed to practice law in the State of California and I represent
7 the Plaintiff herein. I have personal knowledge of the matters set forth herein, and would and could
8 testify thereto if called as a witness herein. I graduated from the University of California at Berkeley
9 in 1993 with a degree in Political Science. I then graduated from the University of San Francisco,
10 School of Law in 1997. I am admitted to practice law before the following courts: United States
11 Court of Appeals, Ninth Circuit, United States Court of Appeals, Federal Circuit, United States
12 District Court, Northern, Central, Eastern, and Southern Districts of California, and all of
13 California's state courts.

14 3. I have been practicing law full time for over twenty-six (26) years. My practice has
15 been devoted to complex class, collective and representative action litigation. Much of this litigation
16 has involved class action, and representative action prosecution of wage and hour laws (state and
17 federal), state and federal privacy laws (FCRA and CCCRA) and consumer laws. My practice
18 involves litigation in both state and federal courts. A sampling of some of the more significant cases
19 (including wage and hour litigation) handled by Righetti Law Firm, P.C., includes: *Rocher v. Sav-*
20 *On Drug Stores* (Hon. Victoria G. Chaney, Los Angeles County Superior Court), co-lead counsel
21 in a certified overtime class action [in a seminal decision, the California Supreme Court
22 unanimously overturned the Court of Appeal's decision to reverse certification (*Sav-On Drug*
23 *Stores, Inc. v. Superior Court* (2004) 34 Cal.4PthP 319); *Gentry v. Circuit City Stores, Inc.* (Hon
24 Tricia Ann Bigelow, Los Angeles County Superior Court), plaintiff's counsel in an overtime class
25 action where the court of appeal's decision affirming the trial court's order to enforce an
26 employment agreement barring class actions was reversed by the California Supreme Court in
27 *Gentry v. Superior Court* (2007) 42 Cal.4PthP 443; *Cooper et al. v. Chief Auto Parts* (Hon. Ken

1 Kawaichi, Alameda County Superior Court), a multi-party (over 200 included plaintiffs) overtime
2 case that proceeded through a merits arbitration; *Winfrey v. Chief Auto Parts* (Hon. David Garcia,
3 San Francisco Superior Court), a certified wage and hour class action where the trial court's order
4 to deny certification was reversed by the First DCA in an unpublished opinion. *Crab Addison v.*
5 *Superior Court*, (LASC Case No. BC377269) plaintiff's counsel in a wage and hour case styled as
6 a class action where 2PndP DCA affirmed trial court's order granting plaintiffs access to names and
7 contact information of putative class members without first sending a "privacy letter" (regarded as
8 a landmark published decision affirming the trial court's order). *Crab Addison v. Superior Court*
9 (2008) 169 Cal.App.4PthP 958 (rehearing denied January 23, 2009; petition for review denied March
10 18, 2009); and *Rutti v. Lojack Corporation, Inc.* (USDC, Central District, Case No. SA CV06-0350-
11 DOC (RNBx, Judge Carter) plaintiffs' counsel in a wage and hour class action. District court's order
12 granting Defendant's motion for summary judgment *reversed* when the 9PthP Circuit granted
13 plaintiffs' Petition for Rehearing. See, *Rutti v. Lojack Corporation, Inc.* 596 F.3d 1046 (2010)
14 [setting the parameters of both the "de minimus" doctrine and workers' right to wages under
15 California law where employer exercises control over workers]; *Home Depot and 99 Cent Only*
16 *Stores* where the trial courts limited the California Private Attorney General Act (PAGA) only to
17 claims under the Labor Code and not to claims under the IWC Wage Orders. In both cases the
18 Courts of Appeal reversed in published decisions. See *Home Depot v. Superior Court* (2011) 191
19 Cal.App.4th 210 (review denied March 16, 2011) (holding PAGA applicable to seating claims on
20 grounds that Labor Code §1198 incorporates IWC Wage Order protections); *Bright v. 99 Cents Only*
21 *Stores* (2010) 189 Cal.App.4th 1472 (review denied February 16, 2011) (same); PAGA action
22 against Bank of America on behalf of California bank tellers. The case was twice dismissed by
23 Judge Real. Judge Real's orders were both reversed by the Ninth Circuit – *Green v. Bank of*
24 *America, N.A.* (9th Cir. 2013) __ Fed. Appx., 2013 WL _____ and *Green v. Bank of America,*
25 *N.A.* (9th Cir. 2015) 634 Fed.Appx. 188. On remand the Ninth Circuit removed the case from the
26 docket of Judge Real and re-assigned the case to Judge Percy Anderson.

27 4. There are many cases where Righetti Law Firm, P.C. (now Righetti Glugoski, P.C.)

1 has acted as class and representative action counsel in certified class actions and PAGA actions in
2 state and federal courts and on appeal.

3 5. We acted as trial counsel in what we believe are the only four class action overtime
4 cases ever to have been tried under the quantitative executive exemption standard articulated in
5 *Ramirez v. Yosemite Water Company* (1999) 20 Cal.4th 785. The first case was tried in Los Angeles
6 County Superior Court before the Hon. J. Stephen Czulager, resulting in a phase one finding that U-
7 Haul had misclassified all California salaried “General Managers” as exempt from overtime. The
8 case settled before the phase two remedy trial convened. The second case was tried in San Diego
9 County Superior Court before the Honorable Patricia Cowett, resulting in a phase one finding that
10 *Aiko Party City* had misclassified salaried employees as exempt from overtime (the phase two
11 damages trial was completed as well). In the third case, we are co-lead counsel in the *Sav-on*
12 overtime litigation that completed the first phase of trial before the Honorable Victoria G. Chaney
13 in Los Angeles County Superior Court (complex). In the fourth trial we were class counsel in a
14 certified class action against Taco Bell alleging that its restaurant general managers were
15 misclassified as exempt under California law. The case was tried in the San Diego County Superior
16 Court before the Hon. Kevin Enright and settled after four weeks of trial.

17 6. Righetti Glugoski, P.C. also represents various amicus groups on occasion in court
18 of appeal proceedings. We have handled appeals throughout California and in the federal courts of
19 the Ninth Circuit, the Seventh Circuit and the Federal Circuit.

20 7. While I am admittedly self-interested in this case – and I present this declaration as
21 an advocate not an expert – the fact is that the fees being sought here are reasonable in light of the
22 contingent nature or the fee, the amount of work performed and the quality of work performed.

23 8. I have become familiar with the non-contingent market rates charged by attorneys in
24 California. I have obtained this familiarity in several ways, including: (1) Researching fee rates; (2)
25 Handling attorneys' fee litigation; (3) Discussing fees with other attorneys; (4) Reviewing
26 declarations regarding prevailing market rates in cases seeking fees; (5) Reviewing attorneys' fee
27 applications and court awards in other cases, as well as (6) Reviewing surveys and articles in legal

1 newspapers and treatises on attorney's fees.

2 9. Here the Righetti Glugoski, P.C. and Nathan & Associates, APC lodestar are greater
3 than the amount of fees being requested.

4 10. In my experience fee awards are almost always determined based on current rates,
5 such as the attorney's rate at the time a motion for fees is made rather than the historical rate at the
6 time the work was performed.

7 11. This Court can appreciate that litigating a high-stakes case against a moneyed
8 defendant, represented by a top-notch law firm, in an unsettled area of law is not appealing to most
9 lawyers. Heightening the risk is the fact that the plaintiff's lawyer will have to finance the litigation.
10 It is not a cause undertaken lightly. This case was hard fought.

11 12. One difficulty in determining the hourly rate of attorneys of similar skill and
12 experience in the relevant community is the scarcity of hourly fee-paying clients in class, collective
13 and/or representative action litigation. As a practical matter, few if any consumers or employees pay
14 attorney's fees on an hourly basis for such extensive litigation. Thus, in such cases attorneys base
15 their retainer agreements on a contingency fee relationship.

16 13. The work in this case involved a PAGA representative action and California's wage
17 and hour laws. Litigating a wage and hour representative action through trial can take years and
18 frequently requires the investment of hundreds of thousands of dollars in costs. This is a very
19 difficult area of law and not within the knowledge of many lawyers as it requires a knowledge of
20 the substantive law, PAGA representative actions procedure, enforcement positions of state and
21 federal agencies and arbitration law. Work of this type requires specialized learning and the
22 willingness to take large risks. Plaintiff's counsel used a high level of skill in the difficult questions
23 that arose in this case. Working with Reuben Nathan, we attempted to efficiently litigate the claims
24 in this matter using a high level of skill in the difficult questions that arose in this case.

25 14. A practice like ours can only properly litigate so many cases at one time. The
26 requirements of this were significant. There is no question that we were precluded from taking other
27 cases, and in fact, had to turn away other meritorious fee generating cases in order to meet the

1 demands of this case.

2 15. We did not receive any compensation for our services during the prosecution of this
3 matter.

4 16. In preparing this fee application, I reviewed the firm's time records, files, and emails.
5 Based on my review of these records, I can attest that all of the time set forth was reasonably devoted
6 to pursuing the interests of the LWDA and Aggrieved Employees and otherwise would have been
7 billed to a fee-paying client.

8 17. Concerning the time Righetti Glugoski, P.C. ("RG") spent on the case, RG spent 57.4
9 hours on this case. I am knowledgeable about the hourly rates charged by attorneys of varying
10 degrees of experience. In the course of my fees practice, I have reviewed the hourly rates of dozens
11 of law firms in California and elsewhere. I am also familiar with the hourly rates awarded in many
12 other fees cases by state and federal courts in California and throughout the country. In addition, I
13 have reviewed many published surveys of attorneys' billing rates. For example, *five plus years ago*
14 the rates charged by attorneys at Sidley Austin (a large defense firm similar to CFD) for
15 class/representative action litigation was between \$925-\$1000 for partners and \$905-\$540 for
16 associates. Attached hereto as Exhibit 1 is a true and correct copy of the 2018 Sidley Austin hourly
17 fee/rate sheet showing Southern California rates.

18 18. My current hourly rate is \$850.00. My rate is on par with the 2018 rates charged by
19 attorneys with similar experience and qualifications who represent commercial and other full-rate
20 clients on an hourly basis. See, e.g., the 2018 Sidley Austin rate sheet referenced above.

21 19. Matthew Righetti's hourly rate is \$1,050.00. Mr. Righetti graduated from the
22 University of California at Berkeley in 1982 with a degree in economics. He then graduated from
23 the University of San Francisco School of Law in 1985. He is admitted to practice law before the
24 following courts: A) United States Court of Appeal in the Ninth Circuit, the Fourth Circuit and the
25 Federal Circuit; B) United States District Courts in the Northern, Central, Eastern, and Southern
26 Districts of California, and the Northern District of Illinois, and C) all of California's state courts.
27 He has been practicing law full time for the past thirty-eight (38) years.

1 20. Mr. Righetti's rate is on par with the 2018 rates of \$925-\$1000 charged by attorneys
2 with similar experience and qualifications who represent commercial and other full-rate clients on
3 an hourly basis. See, e.g., the 2018 Sidley Austin rate sheet referenced above.

4 21. The hourly rates charged by Righetti Glugoski, P.C. are supported by our specialized
5 experience. I believe the rates set forth in the fee application are fully consistent with the market
6 rate for attorneys with comparable expertise, experience, and qualifications handling similar civil
7 litigation.

8 22. I am aware of hourly rates (or their historical equivalents) for other plaintiff counsel
9 approved by courts, including in *Carrillo v. Schneider Logistics Transloading & Distribution, Inc.*,
10 *et al.*, No. CV 11-8557 CAS (DTBx) (C.D. Cal.) (September 24, 2015 order approving 2015 rates
11 of \$895/hr for partners, \$775/hr for a 1994 law graduate, \$650/hr for a 2000 law graduate, \$630/hr
12 for a 2001 law graduate, \$550/hr for a 2004 law graduate, and \$450/hr for a 2008 law graduate, and
13 2015 rates for Law Clerks (\$275/hr) and Paralegals (\$250/hr)); *Brooks v. U.S. Bank, N.A.*, Case No.
14 C12-4935-EMC (N.D. Cal) (June 16, 2014 order approving 2014 rate of \$895/hr for partner, and
15 2014 rates of \$775/hr for a 1992 law graduate, \$610/hr for a 2001 law graduate, \$540/hr for a 2004
16 law graduate, \$275/hr for law clerks, and \$250/hr for paralegals); *Luquetta v. Regents of the*
17 *University of California*, Case No. CGC-05-443007 (San Francisco County Superior Court)
18 (October 31, 2012 Order approving 2012 rate of \$850/hr for partner, and 2012 rates of \$700/hr for
19 a 1994 law graduate, \$570/hr for a 2000 law school graduate, \$250/hr for law clerks, and \$215/hr
20 for paralegals); *Vasquez v. State of California*, Case No. GIC 740832 (San Diego County Superior
21 Court) (October 1, 2012 Order approving 2012 rate of \$850/hr for partner in civil rights case and
22 2012 rate of \$375/hr for 2008 law school graduate); *Div 15 Tech v. Sheet Metal Workers'*
23 *International Association, Local 104*, Case Nos. No. C 10-05309 JSW, C 10-05312 JSW (approving
24 2011 rates, including \$545/hr for 2000 law school graduate and \$215/hr for paralegals); *Air Line*
25 *Pilots Ass'n Int'l v. United Airlines, Inc.*, CGC-07-468937 (JAMS Ref. No. 1100061566) (San
26 Francisco County Super. Ct.) (2011 rates of \$825/hr (partner)); *Zalua v. Tempo Research Corp.*,
27 BC319156 (Los Angeles County Super. Ct.) (2011 rates of \$825/hr (partner).

23. In preparing this fee application, I reviewed the firm's time records, files, and emails. Based on my review of these records, I can attest that all of the time set forth was reasonably devoted to pursuing the Plaintiffs' interests and otherwise would have been billed to a fee-paying client. To calculate the lodestar for the time spent on this case, I personally reviewed and summarized the billing records incurred in prosecuting the matter. I eliminated time entries that could be considered duplicative or inefficient.

24. As of the filing of this motion, RG has spent 57.4 hours in the prosecution of this lawsuit which was necessary to achieve a successful outcome.

25. As of the filing of this motion Matthew Righetti of Righetti Glugoski, P.C. has spent 20.8 hours in the prosecution of this lawsuit. Attorney Righetti's lodestar as of the filing of this motion is \$21,840. Attorney John Glugoski of Righetti Glugoski, P.C., has spent 36.6 hours in the prosecution of this lawsuit. Attorney Glugoski's lodestar at the time of the filing of this motion is \$31,110. The lodestar for Righetti Glugoski, P.C. is \$52,950.

26. I have submitted a time summary setting forth in detail the categories of work performed and the amount of time spent on each of the various categories to support the number of hours expended. The categories are:

- (1) Investigations, Factual Research
- (2) Discovery
- (3) Pleadings, Briefs and Pretrial Motions (includes legal research)
- (4) Court Appearances
- (5) Mediation Settlement and Administration
- (6) Litigation Strategy, Analysis and Case Management
- (7) Class Certification
- (8) Trial Preparation and Trial

Marked and attached hereto as Exhibit 2 is a true and correct copy of the non-duplicative time RG spent on the categories listed above.

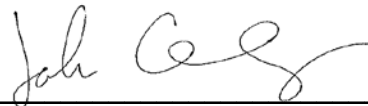
27. The amount of time spent on this case is reasonable given the complexity and novelty

1 of the issues involved, the vigorous defense provided by the Ogletree firm, the length and intensity
2 of the litigation, and the results obtained. Once the settlement was consummated our work has not
3 stopped. We expect to work closely with the court appointed notice administrator to assure that
4 notice is provided consistent with this Court's orders and due process. We intend to promptly
5 respond to all inquiries and we intend to continue our work until all responsibilities are discharged
6 and all funds are dispersed.

7 28. I have reviewed the time and cost summaries submitted to the Court in the
8 declarations of Mr. Nathan. I attest to the amount of work performed by Mr. Nathan as well as the
9 high quality of work and professional standards of Mr. Nathan. The work Mr. Nathan performed
10 was necessary to achieve a successful outcome and was not duplicative of the work performed by
11 the Righetti Glugoski firm.

12 29. In addition, Righetti Glugoski, P.C. incurred \$6,520.85 in out-of-pocket expenses (as
13 detailed below) to achieve the settlement. These costs were both necessary and reasonable in order
14 to prosecute and resolve this matter. A true and correct copy of the cost breakdown is marked and
15 attached hereto as Exhibit 3.

16 I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th
17 day of April, 2024, at San Francisco, California.

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20 John Glugoski
21 Attorneys for Plaintiff, EDUARDO SANDOVAL
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EXHIBIT 1

Andrew J. Prizler v. Charter Communications, Inc
Rate Sheet

<u>TK ID</u>	<u>Timekeeper</u>	<u>Title</u>	<u>2018 Standard Rate</u>	<u>2018 Billing Rate</u>	<u>2019 Standard Rate</u>	<u>2019 Billing Rate</u>
02943	Allen, Margaret H.	Partner	950	831	1,000	850
60970	Fischer, Max C.	Partner	925	809	975	829
43800	Lazerson, Wendy M.	Partner	950	831	975	829
12149	Roberts, Katherine A.	Partner	875	766	925	786
13696	Chao, Wesley	Associate	495	433	540	459
11257	Gonzalez, Anahi	Associate	495	433	540	459
14968	Hong, Alison H.	Associate	835	731	890	757
03043	Limbrick, Tiffanie N.	Associate	785	687	870	740
03170	Mackay, Aimee G.	Associate	860	753	905	769
10517	McDonough, Megan	Associate	495	433	635	540
19461	Miner, Katharine M.	Associate	495	433	635	540
03084	Wyson, Natali	Associate	785	687	870	740
95711	Brown, Denise D.	Paralegal	390	341	415	353
17840	L'Hoste, April K.	Paralegal	350	306	370	315
84271	O'Connell, Kathleen M.	Paralegal	360	315	380	323

EXHIBIT 2

SANDOVAL v. HOME DEPOT
TIME REPORT

Firm Name: Righetti Glugoski, PC

Categories:

(1) Investigations, Factual Research

(5) Mediation Settlement and Administration

(P) Partner

(2) Discovery

(6) Litigation Strategy, Analysis and Case Management

(A) Associate

(3) Pleadings, Briefs and Pretrial Motions

(7) Class Certification

(LC) Law Clerk

(4) Court Appearances

(8) Trial Preparation and Trial

[illegible]

EXHIBIT 3

**Case Costs Summary for Righetti Glugoski, P.C.
SANDOVAL v. HOME DEPOT**

DESCRIPTION	NOTES	AMOUNT
Photocopies	In house and outside	\$0.00
Facsimilies		\$0.00
Postage		\$0.00
Travel/Lodging		\$0.00
On-Line Research (pro-rata Westlaw)		\$0.00
Mileage/Parking/Taxi		\$0.00
Rental Cars		\$0.00
Court reporters; and deposition costs		\$0.00
Courier/Overnight Services	Fax & File,Go Courier, FedEx, UPS	\$0.00
Process servers; subpoenas, etc.		\$0.00
Court Filing Fees		\$70.85
Secretary of State		\$0.00
Database prep and analysis		\$0.00
Experts/Consultants		\$0.00
Court Call charges		\$0.00
At&T Conference Services		\$0.00
Mediation		\$6,450.00
TOTAL:		\$6,520.85