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7 Attorneys for Plaintiff JANICE INSIXIENGMAY on behalf
of herself and similarly situated employees
8

9
10 **UNITED STATES DISTRICT COURT**

11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

12 JANICE INSIXIENGMAY, individually and
13 on behalf of all other similarly situated
employees,

14 Plaintiff,

15 vs.

16 HYATT CORPORATION DBA HYATT
17 REGENCY SACRAMENTO, a Delaware
Corporation; and DOES 1 to 100, inclusive,

18 Defendants.
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20
21
22
23

Case No. 2:18-cv-02993-TLN-SCR

CLASS ACTION

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: September 19, 2024
Time: 2:00 p.m.
Courtroom: 2, 15th Floor
Judge: Hon. Troy L. Nunley

Filed: October 4, 2018
FAC Filed: April 7, 2020
SAC Filed: April 6, 2023
Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Janice Insixiengmay (“Plaintiff”) herein. I am making
4 this declaration on behalf of the named Plaintiff, the putative class members, and in support of
5 Plaintiff’s Motion for Final Approval of Class Action and PAGA Settlement (“Motion”). A true and
6 correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 (“Agreement”) in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff’s contention
9 that Defendant Hyatt Corporation dba Hyatt Regency Sacramento, (“Defendant”) failed to pay overtime
10 wages, failed to provide meal and rest periods or premiums in lieu thereof, failed to provide accurate
11 wage statements, failed to timely pay final wages, failed to pay paid sick time, and engaged in unfair
12 competition. Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act
13 (“PAGA”). These claims were based on allegations that Defendant failed to include certain premium
14 payments when calculating Class Members’ regular rates of pay for the purpose of paying overtime,
15 meal and rest premiums, and paid sick time. The waiting time, wage statement, unfair competition and
16 PAGA claims also derive from these violations.

17 3. Plaintiff is the only named representative in this matter. From our initial investigations
18 of Plaintiff’s claims and documents, we believed these claims had merit and could be maintained as a
19 class action. We filed the action on or about October 4, 2018. Plaintiff exhausted administrative
20 remedies through the Labor and Workforce Development Agency (“LWDA”) prior to amending the
21 Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on October 5, 2018, setting
22 forth the facts and theories of liability. A true and correct copy of the notice filed with the LWDA is
23 being filed with this Motion as Exhibit C. A copy of the notice was also sent to Defendant via certified
24 mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no response by the
25 LWDA regarding its intent to investigate the claims alleged in Plaintiff’s notice for more than 65 days.
26 As such, Plaintiff became authorized to commence a civil action under the PAGA and filed a First
27 Amended Complaint on April 7, 2020. A Second Amended Complaint was filed on April 6, 2023, to
28 clarify the correctly named defendant is Hyatt Corporation dba Hyatt Regency Sacramento and to

1 modify the scope of the putative class to include all individuals within the scope of data and documents
2 produced by Defendant through formal and informal discovery and to match the scope of the resolution
3 reached by the parties. A true and correct copy of Plaintiff's operative Complaint is filed with this
4 Motion as Exhibit B. A copy of the Complaint was uploaded to the LWDA after we received an
5 endorsed copy back from Court. I do not believe I, nor anyone at my firm, have any conflicts with
6 Class Members and that we may adequately represent them.

7 4. After reaching a resolution at mediation on March 20, 2023, the parties stipulated to all
8 certification related deadlines in the Court's Amended Pretrial Scheduling Order and amendment to the
9 Amended Pretrial Scheduling Order being vacated while they memorialized the agreement in writing
10 and finalized all terms for the Court's review and approval. As a result, there is currently no date set
11 for a motion to certify the class and there is no trial date.

12 5. Defendant is represented in this matter by Kabat Chapman & Ozmer LLP. From the
13 beginning, Defendant has contested the merits of this case, the suitability of the case for class action or
14 representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a
15 violation in each pay period for each employee among other defenses and contentions they made
16 challenging the propriety of this action. For instance, Defendant contended that it correctly calculated
17 Class Members' regular rates of pay by incorporating the value of any premium pay (*e.g.*,
18 nondiscretionary bonuses, incentives, etc.) it was required to include under the law. Notwithstanding
19 that contention, Defendant adjusted its policy and practice in June 2019 to incorporate the value of
20 premium payments made to Class Members into their regular rates of pay for the purpose of paying
21 meal and rest period premiums. Plaintiff disagreed with Defendant's contention that meal and rest
22 premiums were paid at the correct rate prior to June 2019. Plaintiff also believed additional types of
23 premium pay (*e.g.*, the value of free meals) should have been incorporated into the regular rate of pay
24 during the Class Period, which Defendant contends was not required under the law. Defendant further
25 contended that any failure to pay wages was not willful and therefore would not support the imposition
26 of waiting time penalties or a finding that any wage statement violation was knowing and intentional.
27 Defendant contended, even assuming there was a finding supporting the imposition of PAGA penalties,
28 that the Court would likely exercise its discretion to substantially reduce any such penalties owed based

1 on evidence of good faith attempts to comply with California Labor Code obligations by Defendant.
2 Notwithstanding its agreement to settle this matter, Defendant believes the practices Plaintiff is
3 contending are unlawful either do not exist or, to the extent they do exist, fully comply with all state
4 and federal employment laws with respect to Plaintiff and Class Members. Also, Defendant has
5 contended that this matter is not appropriate for class certification outside of this proposed class
6 settlement.

7 6. Based on the expected testimony from Plaintiff and Class Members, a review of
8 Defendant's policies and procedures and other documents relating to the alleged claims, information on
9 the number of Class Members, Class Members' dates of employment, and a large sample of Class
10 Members' payroll data (approximately 75%), the scope of the potential damages to Plaintiff and Class
11 Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the
12 negotiations that have taken place, I am convinced that the proposed settlement is in the best interest of
13 the class. The length and risks of trial and other normal perils of litigation that impact the value of the
14 claims were also considered and weighed in reaching the Agreement. In addition, I carefully considered
15 the prospect of potential class certification issues as well as the uncertainty of class certification, the
16 difficulties of complex litigation, and the lengthy process of establishing specific damages and various
17 possible delays and appeals in agreeing to the proposed settlement. I further considered the fact that
18 penalties under the PAGA could be substantially cut at the discretion of the Court even if Plaintiff was
19 successful on proving those claims and there was risk that a Court could find no willfulness in the failure
20 to pay wages at separation, which would eliminate the value of the waiting time penalty claim entirely.
21 Overall, I believe it is more beneficial to secure a guaranteed benefit to the class now rather than to
22 proceed with litigation and potentially obtain zero funds to the class due to legal or factual issues in the
23 case.

24 7. My office, including my partner, Galen T. Shimoda, my former senior associate, Brittany
25 V. Berzin, our paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits
26 of the claims and potential damages for such claims. The parties engaged in formal and informal
27 discovery and exchange of documents, including but not limited to contact information for Class
28 Members, Defendant's relevant policies for the entirety of the statute of limitations applicable to the

1 alleged claims, and time records and payroll data for approximately 75% of Class Members. Although
2 the parties were ultimately able to resolve discovery disputes that arose, there was a substantial amount
3 of meet and confer efforts that took place during discovery relating to Class Member information, the
4 produced documents, and depositions, including the need for an informal discovery conference. Making
5 sure the produced documents had all the information necessary to assess the claims was a very time-
6 consuming task as the necessary pieces of payroll information were spread across several different types
7 of reports that had to be cross referenced on an employee-by-employee basis for each pay period.
8 Defendant produced in excess of 10,000 pages of documents through discovery. Additionally, several
9 excel spreadsheets containing payroll data for earnings and hours worked for two different payroll
10 systems that Defendant used during the Class Period were produced, which had to be cross referenced
11 for each employee, for each period, in order to perform the appropriate regular rate of pay calculations
12 relevant to Plaintiff's asserted claims. The spreadsheets contained more than 300,000 rows of data and
13 between one (1) to four (4) different spreadsheets had to be referenced at a time to get the necessary
14 information from more than fifty (50) different pay codes when performing the regular rate calculations
15 and comparing them to Defendant's interrogatory and deposition responses. This was an incredibly
16 tedious and time-consuming task that required the use of an expert to help calculate the amounts. This
17 also required the use of a vendor, iBridge, to convert several thousand pages of PDF payroll document
18 into a useable excel format, which also had to be cross referenced with the payroll spreadsheets
19 produced by Defendant to perform the regular rate calculations. Depositions were completed for
20 Plaintiff and Defendant's Person Most Knowledgeable. Plaintiff's counsel also contacted Class
21 Members and completed a substantial number of interviews. The discovery covered all aspects of the
22 asserted claims, including certification issues, merits issues, damages, the scope and configuration of
23 Class Members, the content and implementation of the wage and hour policies at issue, issues relating to
24 manageability concerns at trial, among other relevant areas. From this production we were able to
25 determine information critical to a reliable damages analysis such as the average hourly rate, average
26 daily hours worked, average number of workweeks and pay periods that had potential violations based
27 on the asserted claims, the frequency with which violations occurred in a given week and/or pay period,
28 and the number of former employees. This information allowed my office to assess both liability and

1 damages and create an accurate damages model. Plaintiff assisted in all aspects of this litigation
2 including providing factual information relating to Plaintiff's and Class Members' employment
3 conditions, providing a substantial number of documents, and answering questions regarding
4 Defendant's factual contentions in this matter. This was important because it directly related to our
5 ability to maintain this case as a class action and our ability to obtain a favorable settlement for the class.

6 8. Throughout this litigation our office had numerous communications with Defendant's
7 Counsel discussing our respective positions. The parties engaged in mediation on March 20, 2023,
8 using an experienced mediator, Gig Kyriacou, Esq. It was only after nearly five (5) years of extensive,
9 arm's length negotiations that the parties were able to reach a settlement, which only occurred after a
10 full-day mediation. The negotiations were at all times contentious and adversarial, though still
11 professional in nature.

12 9. The parties reviewed and analyzed substantial amounts of data regarding the class
13 claims. Based on our analysis and review of all relevant documents and Class Member information, the
14 following represents the potential maximum recovery for each asserted claim and the risk associated:

- 15 • Meal and Rest Periods: The meal and rest period claims were one of the main claims for
16 Plaintiff. Plaintiff alleged Defendant did not provide all meal and rest periods, resulting
17 in meal and rest period premiums being paid to Class Members. Plaintiff further alleged
18 that meal and rest period premiums paid by Defendant were not paid at the correct rate
19 of pay. Prior to June 2019, Defendant paid meal and rest period premiums at Class
20 Members' base hourly rate and did not incorporate the value of any premium pay (*e.g.*,
21 nondiscretionary bonuses, incentives, etc.). After June 2, 2019, Defendant modified its
22 policy and practice to include premium pay in its regular rate calculation. However,
23 Defendant did not include the value of free meals provided to Class Members, which
24 Plaintiff contends should have been included. At the time of mediation, the maximum
25 possible damages for these claims based on Defendant's records was \$22,597.25. This
26 amount does not take into account any potential risks with respect to Plaintiff proving
27 the merits or damages. Plaintiff's strongest claims are for meal and rest premiums owed
28 prior to June 2019, which equates to \$8,534.50. For the claim period after June 2019,

1 recovery depends on Plaintiff proving that the value of free meals should have been
2 included in Defendant's regular rate of pay calculation. There is a substantial risk a trier
3 of fact or the Court would find the value of meals did not need to be included in the
4 regular rate calculation because Defendant's policy was to provide one (1) meal per day.
5 *See* 29 C.F.R. §548.3(d); 29 C.F.R. § 548.304. The issue would be whether occasional
6 instances where some Class Members were able to get additional food were sufficient to
7 become "customary" for Defendant to provide more than one (1) meal a day despite its
8 express written policy to the contrary. If Defendant was successful in its arguments, the
9 value of the claim post June 2019 would be \$0.

- 10 • Overtime Wages: This claim is based on allegations that Defendant did not incorporate
11 the value of all premium pay when calculating Class Members' regular rates of pay for
12 the purpose of paying overtime. At the time of mediation, the maximum possible
13 damages for this claim based on Defendant's records was \$13,479.38. This amount does
14 not take into account any potential risks with respect to Plaintiff proving the merits or
15 damages. Through discovery Plaintiff determined that the only pay not incorporated
16 into the regular rate of pay during the Class Period for the purpose of paying overtime
17 wages was the value of free meals provided to Class Members. For the reasons
18 described above, there is a substantial risk a trier of fact or the Court would find the
19 value of meals did not need to be included in the regular rate calculation. If Defendant
20 prevailed on its argument, the value of this claim would be \$0.
- 21 • Paid Sick Time: This claim is based on allegations that Defendant did not incorporate
22 the value of all premium pay when calculating Class Members' regular rates of pay for
23 the purpose of paying sick leave wages. At the time of mediation, the maximum
24 possible damages for this claim based on Defendant's records was \$2,246.56. This
25 amount does not take into account any potential risks with respect to Plaintiff proving
26 the merits or damages. Similar to the overtime claim, Plaintiff determined that the only
27 premium pay not incorporated into the regular rate of pay during the Class Period for the
28 purpose of calculating paid sick time was the value of free meals provided to Class

1 Members. For the reasons described above, there is a substantial risk a trier of fact or
2 the Court would find the value of meals did not need to be included in the regular rate
3 calculation. *See* 29 C.F.R. §548.3(d); 29 C.F.R. § 548.304. If Defendant prevailed on
4 its argument, the value of this claim would be \$0.

- 5 • Wage Statement: This claim is derivative of the overtime, meal, rest, and paid sick time
6 claims. It is based on allegations that the wage statements issued to Class Members
7 included inaccurate hourly rates due to Defendant's failure to correctly calculate Class
8 Members' regular rates of pay. At the time of mediation, the maximum possible
9 damages for this claim based on Defendant's records was \$197,075. This amount does
10 not take into account any potential risks with respect to Plaintiff proving the merits or
11 damages. Again, this claim largely rests on Plaintiff's ability to show the value of free
12 meal periods should have been included in the regular rate of pay. If not, there can be
13 no wage statement penalties that derive from Plaintiff's overtime and paid sick time
14 claims or Plaintiff's meal and rest period claims post June 2019. The strongest portion
15 of this claim arises from a failure to pay meal and rest period premiums at the correct
16 rate up to June 2019, which at the time of mediation resulted in damages of \$18,600.
17 However, there is also a substantial risk that a trier of fact or the Court would find to the
18 extent wage statements were inaccurate, it was not due to a knowing and intentional
19 failure of Defendant as required by Labor Code section 226(e)(1). Moreover, there was
20 a split of authority at the time regarding whether an employer's good faith belief it is not
21 violating the law precludes a finding of a knowing and intentional violations. The
22 California Supreme Court has since confirmed that a good faith belief defense is
23 applicable to wage statement violation claims. *See Naranjo v. Spectrum Sec. Servs., Inc.*,
24 15 Cal.5th 1056, 1065 (2024). Because it was not conclusively established that meal
25 and rest period premiums were required to be paid at the regular rate of pay and included
26 on an employee's paystub until May 2022 when the Supreme Court issued its decision in
27 *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022), it is possible
28

1 Defendant had a good faith belief it was not violating the law. Accordingly, a more
2 realistic range of recovery for this claim is approximately \$0 to \$18,600.

- 3 • Waiting Time: This claim is derivative of the overtime, meal, rest, and paid sick time
4 claims. It is based on allegations that Class Members had wages due and owing to them
5 that remained unpaid after the end of their employment due to Defendant's failure to
6 correctly calculate Class Members' regular rates of pay. Because this claim is
7 derivative, it carries the same risks identified for Plaintiff's overtime, meal and rest
8 period, and paid sick time claims. At the time of mediation, the maximum possible
9 damages for this claim based on Defendant's records was \$2,052,000. This amount does
10 not take into account any potential risks with respect to Plaintiff proving the merits or
11 damages. Plaintiff's failure to prevail on any of the above claims would reduce the
12 number of former Class Members with unpaid wages who would be eligible to recover
13 waiting time penalties. Further, there is a substantial risk that Defendant's belief it
14 correctly calculated Class Members' regular rates of pay would cause a trier of fact to
15 find the failure to pay wages was not willful or that Defendant had a good faith
16 affirmative defense, which would eliminate the value of this claim entirely. *See* Labor
17 Code § 203 (a good faith dispute that any wages are due will preclude imposition of
18 waiting time penalties); *Estrada v. Royal Carpet Mills, Inc.*, 76 Cal.App.5th 685, 729
19 (2022) ("A good faith dispute that any wages are due occurs when an employer presents
20 a defense, based in law or fact, which if successful, would preclude any recovery on the
21 party of the employee.") (internal citations omitted); *Kao v. Joy Holiday*, 12 Cal.App.5th
22 947, 963 (2017) (a good faith dispute as to whether an employee is exempt will preclude
23 an award of waiting time penalties). The maximum possible damages at the time of
24 mediation for the portion of this claim arising from Plaintiff's strongest argument, that
25 Defendant did not correctly pay meal and rest period premiums prior to June 2019, was
26 \$738,000. However, as mentioned above, it was not conclusively established until May
27 2022 that meal and rest period premiums were wages for purposes of waiting time
28 penalties. *See Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022).

1 Taking these factors into account, a more realistic range of recovery for this claim is
2 approximately \$0 to \$738,000.

- 3 • PAGA: This claim is derivative of the Labor Code violations identified above. Based on
4 our research, we did not find any prior Labor Commissioner or court decisions that
5 stated Defendant's practices and/or policies were improper. As such, a "subsequent
6 violation" may not be found for penalty calculation purposes, and the exposure analysis
7 here is based on an "initial violation" valuation being adopted by any fact finder if this
8 matter went to trial. Based on the data, the total exposure for this claim is \$2,312,950.
9 This amount does not take into account any of the potential risks associated with this
10 claim. Because this claim is derivative, it carries all the same risks identified in the
11 claims above. I also believe the Court may exercise its discretion to reduce PAGA
12 penalties in this case because the underlying amount of alleged unpaid wages was very
13 small, a majority of the civil penalties sought would be in addition to amounts owed for
14 substantive violations, and Defendant contends it had a good faith belief it was
15 following the law, which a Court may find resulted in a good faith dispute that Class
16 Members are owed any associated penalties. Courts are statutorily authorized to use
17 discretion to reduce penalties, and the range of discretion used varies substantially. *See*
18 *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30%
19 reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal.
20 2011) (82% reduction). Thus, the total exposure may be cut to approximately
21 \$1,619,065 (30% reduction) to \$416,331 (82% reduction) or lower. It is important to
22 note that this discretionary reduction is completely separate and in addition to any risks
23 on the merits. Given the substantial risks, and the disputed nature of the claims, we
24 believe the amount that might ultimately be awarded under this claim would be
25 significantly lower than our maximum exposure calculation. Allocating \$10,000 to the
26 PAGA claims in this case is appropriate, especially in light of amounts that Courts have
27 approved as reasonable valuations in other cases. *See Nordstrom Com. Cases*, 186
28 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims

1 based on their being disputed and being part of a class settlement which was evaluated
2 based on the terms of the agreement overall); *Davis v. Cox Commc 'ns California, LLC*,
3 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000
4 PAGA allocation in \$275,000 settlement); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S.
5 Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in
6 \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS
7 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000
8 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal.
9 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Garcia v. Gordon*
10 *Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving
11 \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,
12 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from
13 \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645,
14 at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA
15 out of \$6.9 million common-fund settlement).

16 10. To summarize, the maximum damages for the asserted class claims is approximately
17 \$770,540.46 to \$2,304,734.74, which is inclusive of interest on amounts for alleged unpaid wages.
18 Taking into account the value of the PAGA claim with a potential 82% reduction to the penalty
19 amount, the maximum possible total damages would be approximately \$1,186,871.46 to \$2,721,065.74.
20 Plaintiff's \$295,000 gross recovery under the Agreement represents approximately 10.8% to 24.9% of
21 the maximum likely recovery in this matter. After deducting from the Gross Settlement Amount the
22 proposed allocations for attorneys' fees (\$103,250) and costs (\$29,051.07), Enhancement Payment to
23 the Class Representative (\$10,000), Settlement Administrator Costs (\$13,500), and the PAGA Payment
24 to the LWDA (\$7,500), the net recovery under the Agreement, \$129,198.93, represents approximately
25 4.8% to 10.9% of the likely value of the claims in this matter. I believe the Agreement represents a
26 reasonable compromise of claims based on the legal and factual disputes in this case and that the
27 Settlement is fair, reasonable, and adequate for all Class Members. The average net award is
28 approximately \$119.96. The ability to secure a guaranteed settlement now and ensure Class Members

1 receive some compensation, rather than proceed to further litigation and potentially recover nothing,
2 was a motivating factor in reaching this Agreement.

3 11. Under the Agreement, for payment allocation purposes only, Class Members will be
4 divided into two subclasses: (1) Class Members who worked between October 4, 2018, and June 2,
5 2019, and (2) Class Members who worked between June 3, 2019, and June 1, 2023. Subclass 1 will be
6 allocated 70% of the Net Settlement Amount and Subclass 2 will be allocated 30% of the Net
7 Settlement Amount. As discussed above, Plaintiff's strongest claim is for amounts owed for meal and
8 rest premiums prior to June 2019 when Defendant did not incorporate the value of various types of
9 premium pay (*e.g.*, nondiscretionary bonuses, incentives, etc.) when calculating Class Members' meal
10 and rest period premiums. Based on the Supreme Court's decision in *Ferra* and *Naranjo*, this was a
11 clear violation. The other claims for overtime wages, paid sick time, and meal and rest premiums (post
12 June 2019) are less certain because they depend on Plaintiff prevailing on her argument that the value
13 of free meals should have been included in the regular rate of pay, which is disputed by Defendant and
14 hinges on whether any additional food obtained was "customary" despite the express policy limiting
15 meals to once per day. *See* 29 C.F.R. §548.3(d); 29 C.F.R. § 548.304. Based on the extensive informal
16 and formal discovery completed, a review of applicable case law, and taking into consideration the
17 respective risks for the claims, I believe the 70% versus 30% allocation appropriately balances the
18 potential damages at issue, and the risk of loss based on the different bases of recovery between the two
19 groups.

20 12. On or about February 14, 2023, the United States District Court for the Northern District
21 of California granted final approval of a class action settlement in a related case against Hyatt
22 Corporation, *Crump v. Hyatt Corporation*, Case No. 4:20-cv-00295-HSG. The scope of the *Crump*
23 settlement included all current and former non-exempt, hourly employees working for Hyatt
24 Corporation in California at any time between December 6, 2015, through June 9, 2019, which includes
25 many of the individuals covered by the settlement in this case. The class included approximately
26 15,870 individuals. The *Crump* action was based on allegations that Hyatt Corporation failed to pay its
27 employees all wages owed due to an unlawful rounding policy and practice and was liable for
28

1 derivative statutory and civil penalties. The gross settlement amount was \$990,000. The released
2 claims in the *Crump* action included:

3
4 all claims asserted or that could have been asserted based on the facts and
5 theory that Defendant or any of the Released Parties maintained a
6 timekeeping system that unlawfully rounded time as alleged in the Second
7 Amended Complaint in the Action, including those for: (1) all claims for
8 alleged failure to pay minimum, straight time, overtime, or double time
9 wages, wages or damages under the FLSA, California law, or common
10 law, based on a theory that Defendant or any of the Released Parties
11 maintained a timekeeping system that unlawfully rounded time; (2) failure
12 to pay final wages due at separation or upon termination; (3) failure to
13 timely pay wages during employment; (4) failure to provide accurate and
14 itemized wage statements; (5) failure to keep requisite payroll records; (6)
15 claims brought under Business & Professions Code section 17200 et seq.
16 including, but not limited to, all claims for unfair, unlawful and harmful
17 conduct to class members, the general public and Defendant's competitors
18 and claims of unlawfully gaining an unfair advantage over other
19 businesses based on the facts and allegations contained in the Second
20 Amended Complaint; (7) PAGA claims for civil penalties due to any
21 Labor Code violations by Defendant arising out of or related to events
22 alleged in the Second Amended Complaint including, but not limited to,
23 Labor Code sections 201, 202, 203, 204, 226, 226.3, 510, 1174, 1194,
24 1197, 1197.1, and 1198; and California Industrial Welfare Commission
25 Wage Orders; (8) penalties of any nature; (9) interest; (10) liquidated
26 damages; (11) attorneys' fees; (12) costs; and (13) any other claims arising
27 out of or related to the Second Amended Complaint filed in the Action
28 through final approval of the Settlement. This Settlement, Settlement
Agreement, and the definition of Released Claims expressly exclude all
claims pled in *Hartstein v. Hyatt Corporation*, Case No. 2:20-cv-04874-
DSF-JPR and *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-
02993-TLN-DB.

13. The average recovery per class member based on the net settlement amount in the
Crump case was \$26.08 (\$413,841.44/15,870). As stated above, the settlement in this case is estimated
to provide an average net recovery per class member of \$119.96, which is roughly 460% higher than
the *Crump* average net recovery. This is further evidence that the Agreement in this case represents a
reasonable compromise of claims.

14. I am not aware of any other cases that will be affected by the settlement in this case. I
am not aware of any other individual cases brought by Class Members against Defendant for the
regular rate of pay issue alleged in this lawsuit. Instead, there have been several class actions filed
asserting wage and hour claims, including the *Crump* case, which resolved all other types of wage and
hour claims that could be asserted, aside from those raised in this case. This indicates that the preferred

1 method of resolving claims by Class Members is through class action litigation, rather than individual
2 litigation.

3 15. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law
4 practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I
5 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the
6 Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two
7 recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the
8 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris
9 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at
10 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my
11 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the
12 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from
13 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*
14 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar
15 Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society
16 and an officer for the Latino Law Students Association from 2009 to 2010.

17 16. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda
18 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.
19 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent
20 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have
21 been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number
22 of seminars covering issues in wage and hour litigation in general and complex class and PAGA
23 litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the
24 Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class
25 Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020);
26 (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept.
27 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County
28 Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a

1 Post-*Viking River Cruises World* (Sacramento County Bar Assoc., Nov. 2022). I was elected to the
2 Sacramento County Bar Association Labor and Employment Law Section’s executive committee in
3 2019 and was the Chair of the executive committee for 2022. I have also been a member of the
4 Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August
5 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA
6 claims, and Fair Labor Standards Act (“FLSA”) claims. I am actively involved in most all of the
7 complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently
8 litigating, including the instant case, includes, but is not limited to, the following:

- 9 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 10 • *Adams-Anguy v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- 11 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 12 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 13 • *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080
14 (San Joaquin Sup. Ct.);
- 15 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 16 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 17 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
18 Sup. Ct.);
- 19 • *Barkhousen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
20 Ct.);
- 21 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 22 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
23 00271174 (Sac. Sup. Ct.);
- 24 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
25 Ct.);
- 26 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
27 Ct.);
- 28 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.

1 Sup. Ct.);

- 2 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 3 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 4 Ct.);
- 5 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 6 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 7 00209613 (Sac. Sup. Ct.);
- 8 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 9 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-
- 10 00222101 (Sac. Sup. Ct.);
- 11 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 12 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 13 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 14 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 15 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 16 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.
- 17 Ct.);
- 18 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 19 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 20 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 21 • *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 22 • *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- 23 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 24 • *Hellum v. AI Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- 25 • *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- 26 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- 27 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 28 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);

- 1 • *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- 2 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 3 • *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- 4 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 5 • *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-
6 EFB (E.D. Cal.);
- 7 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 8 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 9 • *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 10 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
11 00082201 (Sac Sup. Ct.);
- 12 • *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- 13 • *Salmon v. Ovations Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- 14 • *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- 15 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 16 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 17 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 18 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.
19 Sup. Ct.);
- 20 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- 21 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

22 17. The preceding list does not include those cases where, for various reasons, the case was
23 filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

24 18. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in
25 assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of
26 plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda
27 attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a
28 B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the

1 University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He
2 graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and
3 Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of
4 employment law articles for journals and our firm regularly publishes articles on our firm's website.
5 Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)
6 Employment Review seminars from 2014 to the present. His speaking engagements include the
7 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
8 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
9 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
10 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
11 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
12 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
13 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,
14 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the
15 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
16 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance
17 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
18 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
19 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
20 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
21 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
22 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
23 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
24 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
25 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
26 as a Super Lawyer from 2014 to present.

27 19. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
28 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.

1 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
2 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
3 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
4 Federal Courts, including up to certification, settlement, Final and final approval, and disbursement of
5 monies, and has been found to be satisfy the adequacy requirements for class counsel. Some of the
6 class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel include the
7 following:

- 8 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 9 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 10 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 11 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 12 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 13 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 14 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 15 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 16 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
17 Sup. Ct.);
- 18 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 19 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
20 Ct.);
- 21 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
22 Ct.);
- 23 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
24 Sup. Ct.);
- 25 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 26 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
27 Ct.);
- 28 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);

- 1 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
2 00209613 (Sac. Sup. Ct.);
- 3 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 4 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 5 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- 6 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
7 (San Joaquin Sup. Ct.);
- 8 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- 9 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.
10 Sup. Ct.);
- 11 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 12 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 13 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.
14 Sup. Ct.);
- 15 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 16 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 17 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 18 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 19 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 20 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 21 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 22 • *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- 23 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 24 • *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- 25 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 26 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 27 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
28 Sup. Ct.);

- 1 • *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- 2 • *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- 3 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 4 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 5 • *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- 6 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
- 7 00082201 (Sac Sup. Ct.);
- 8 • *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac.
- 9 Sup. Ct.);
- 10 • *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- 11 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 12 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 13 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.
- 14 Sup. Ct.);
- 15 • *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac. Sup. Ct.);
- 16 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- 17 • *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- 18 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

19 20. The preceding list of cases does not include those where, for a variety of reasons, the
20 case was initially filed as a class and/or PAGA action, but did not maintain that status through the end
21 of the case.

22 21. My former senior associate, Brittany V. Berzin, Esq., also worked with me on this
23 matter and was critical in assisting with all aspects of the litigation of this case. Ms. Berzin attended
24 and graduated college from U.C. Davis, receiving a Bachelor of Arts in Psychology. She received her
25 J.D. from the University of the Pacific McGeorge School of Law. She joined Shimoda & Rodriguez
26 Law, PC as a law clerk in February 2015 where she gained civil litigation experience working on
27 individual, class action and PAGA employment cases throughout law school. She also participated in
28 an employment law clinic in 2015 and 2016 that helped low-income workers by providing free legal

1 consultations, advising employees of their legal remedies on a variety of matters (*e.g.*, wage and hour,
2 discrimination/harassment, California leave laws, unemployment, workers' compensation, retaliation,
3 and wrongful termination, etc.) under the supervision of an attorney, preparing wage claims, and
4 providing representation in wage claims before the California Labor Commissioner. From 2016-2017,
5 she completed an externship at the Federal Public Defenders Office as a Certified Law Student where
6 she obtained discovery, completed legal research, drafted motions, negotiated plea deals, represented
7 clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and
8 defended a client against five misdemeanor charges in a jury trial in the United States District Court for
9 The Eastern District of California. Ms. Berzin was also a member of the nationally recognized
10 McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018 after
11 graduating from law school. In May 2017, she graduated from the University of the Pacific, McGeorge
12 School of Law with Great Distinction and was inducted into the Order of the Coif, graduating in the top
13 10% of her class. Ms. Berzin received the Witkin Award for Academic Excellence in Legal Research
14 and Writing, Civil Procedure, Bankruptcy, and Criminal Procedure. From 2020 to present, she has
15 been recognized as a Super Lawyer (Rising Star). Ms. Berzin has been a member of the executive
16 committee of the Sacramento County Bar Association Labor & Employment Section since January
17 2020, serving as Co-Chair of the committee in 2021. She has over seven years of experience working
18 on civil litigation in employment law matters. Most of that experience has been specific to analyzing
19 and litigating wage and hour claims. As an associate, Ms. Berzin has worked on a variety of individual,
20 class action, and PAGA cases involving wage and hour claims, such as failure to pay overtime, failure
21 to pay minimum wages, failure to provide meal and rest periods, failure to pay reimbursement
22 expenses, unlawful deductions, failure to keep accurate time records, failure to provide paid sick leave,
23 failure to pay all wages upon separation, unfair competition, breach of contract, independent contractor
24 misclassification, and salaried misclassifications. Some of the class action and/or PAGA cases she is
25 litigating and/or have litigated as lead or co-counsel, including this case, are as follows:

- 26 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin
27 Sup. Ct.);
- 28 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);

- 1 • *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin
2 Sup. Ct.);
- 3 • *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.
4 Cal.);
- 5 • *Blair v. Clark Wagaman Designs*, Case No. 34-2021-00313156 (Sac. Sup. Ct.);
- 6 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 7 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 8 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 9 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 10 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 11 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 12 • *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- 13 • *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- 14 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 15 • *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 16 • *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- 17 • *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- 18 • *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- 19 • *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- 20 • *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- 21 • *Magat v. Medical Care Professionals, Inc., et al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- 22 • *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup.
23 Ct.);
- 24 • *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- 25 • *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup.
26 Ct.);
- 27 • *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac.
28 Sup. Ct.);

- 1 • *Neufield v. Professional Transportation, Inc.*, Case No. 34-2021-00309849 (Sac. Sup. Ct.);
- 2 • *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- 3 • *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);
- 4 • *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- 5 • *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup.
- 6 Ct.);
- 7 • *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- 8 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 9 • *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- 10 • *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);
- 11 • *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup.
- 12 Ct.);
- 13 • *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac.
- 14 Sup. Ct.);
- 15 • *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and
- 16 • *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

17 22. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr.
18 Konini graduated from Seton Hall University School of Law. Prior to moving to California, he
19 practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of
20 individual and class action cases, including those involving wage and hour claims, Private Attorney
21 General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and
22 harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing
23 as an associate at my firm from approximately April 2019 to February 2021 and rejoined my firm in
24 September 2022. Mr. Konini has worked on written discovery and depositions, calculating class-wide
25 damages, communicating with class representatives, drafting briefs and motions, and more. Mr. Konini
26 worked on other class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v.*
27 *Air Products and Chemicals, Inc.*, Case No. 34-2018-00236898 (Sac. Sup. Ct.), *Carr v. Howroyd-*
28 *Wright Employment Agency, Inc.*, Case No. 34-2018-00228290 (Sac. Sup. Ct.), *Gomez v. Vander*

1 *Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-0003954 (San Joaquin Sup. Ct.), *Haggins v. Kelly*
2 *Services, Inc.*, Case No. 34-2017-00220473 (Sac. Sup. Ct.), *Hussaini v. Integrated Resources, Inc.*, et
3 al, Case No. 34-2021-00297152 (Sac. Sup. Ct.), *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental*
4 *Corporation (D/B/A Children’s Choice Pediatric Dental Care), et al.*, Case No. 34-2020-00290072
5 (Sac. Sup. Ct.), *Lear v. Raxium, Inc.*, Case No. 21CV004358 (Alameda Sup. Ct.), *Serrano v. Cool*
6 *Time, LLC*, Case No. 34-2021-00312356 (Sac. Sup. Ct.), *Grebe v. Mary Ann’s Baking Co., Inc.*, Case
7 No. 34-2020-00285254-CU-OE-GDS (Sac. Sup. Ct.), *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No.
8 20CV01255 (Butte Sup. Ct.), *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac.
9 Sup. Ct.), *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
10 Sup. Ct), *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup.
11 Ct.), *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac. Sup. Ct). Mr.
12 Konini’s practice largely revolves around wage and hour matters, including PAGA claims.

13 23. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
14 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
15 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were
16 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
17 Exhibit D.

18 24. The designated *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. (“CPB”) and
19 The Center For Workers Rights (“CFWR”). Only those funds that remain from uncashed settlement
20 checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

21 25. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was
22 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,
23 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,
24 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in
25 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,
26 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services
27 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*
28

1 *pres* funds from several jurisdictions in the State of California, including from Sacramento County
2 Superior Court.

3 26. If CPB is approved as a *cy pres* beneficiary, any funds received will be dedicated to the
4 Employment Law Clinic and Advice Line project, which assists the indigent with legal matters related to
5 their current or former employment. This assistance regularly includes, but is not limited to, free legal
6 advice regarding claims for unpaid wages, failure to provide meal and rest periods, failure to pay
7 reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance with legal
8 forms, and direct representation in administrative hearings, including administrative hearings in front of
9 the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic coordinator
10 who provide assistance, along with experienced employment law attorney volunteers. These services
11 have been a focus of the Employment Law Clinic and Advice Line project since its inception with VLSP
12 and continuing through today under CPB.

13 27. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a
14 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the
15 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-
16 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with
17 workers and advises them as to the available legal remedies. In addition to individual counseling on
18 employment issues, the CFWR educates workers, unions, and community members about workplace
19 laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

20 28. The CFWR provides limited representation for low-wage workers in wage claims before
21 the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety
22 of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic
23 workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay
24 overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The
25 CFWR helps workers navigate the wage claim process before the California Labor Commissioner
26 through advice given at its legal consultation clinics and/or, in some cases, through representing workers
27 in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated
28

1 towards assisting low-wage workers with wage claims and enforcing the California Labor Code with
2 respect to those wage claims.

3 29. I believe the services provided by CPB and the CFWR promote the law consistent with
4 the objective of wage and hour class actions in general and in this case specifically.

5 30. I have spoken with every other attorney at my firm to determine whether they have any
6 relationship with either of the proposed *cy pres* beneficiaries.

7 31. I have volunteered for both organizations numerous times over the past several years,
8 either directly in advice clinics or by presenting seminars on wage and hour laws for law students
9 seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB's advisory
10 committee. These organizations are non-profits that assist low-income workers throughout California,
11 giving free legal advice regarding employment law issues and representing employees with wage claims
12 before the California Labor Commissioner. I have witnessed firsthand the quality service and attention
13 these entities provide to individuals in need of employment law advice and representation at the
14 California Labor Commissioner.

15 32. Galen T. Shimoda has volunteered for both organizations on and off over the past several
16 years through either presenting wage and hour seminars to law students who staff the free advice clinics
17 or helping at the advice clinics themselves. However, Mr. Shimoda has not performed any volunteer
18 work with either organization since approximately March 2020. Mr. Shimoda has never received
19 payment or compensation of any kind in connection with any work he's done with either of the proposed
20 *cy pres* beneficiaries.

21 33. Neither my firm, myself, Mr. Konini, nor Mr. Shimoda have ever received any
22 compensation, direct or indirect, for designating CFWR or CPB as *cy pres* beneficiaries or in connection
23 with any of the volunteer work we have done with the organizations.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing is
25 true and correct. Executed on August 15, 2024, in Sacramento, California.

26 _____
27 /s/ Justin P. Rodriguez

28 Justin P. Rodriguez