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

9 **UNITED STATES DISTRICT COURT**

10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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

14 Plaintiff,

15 vs.

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

18 Defendants.

**Case No. 2:18-cv-02993-TLN-DB**

**CLASS ACTION**

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

Date: November 16, 2023  
 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 Preliminary Approval of Class Action and PAGA Settlement (“Motion”). A true  
6 and 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 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 violation  
15 in each pay period for each employee among other defenses and contentions they made challenging the  
16 propriety of this action. For instance, Defendant contended that it correctly calculated Class Members'  
17 regular rates of pay by incorporating the value of any premium pay (*e.g.*, nondiscretionary bonuses,  
18 incentives, etc.) it was required to include under the law. Notwithstanding that contention, Defendant  
19 adjusted its policy and practice in June 2019 to incorporate the value of premium payments made to  
20 Class Members into their regular rates of pay for the purpose of paying meal and rest period premiums.  
21 Plaintiff disagreed with Defendant's contention that meal and rest premiums were paid at the correct  
22 rate prior to June 2019. Plaintiff also believed additional types of premium pay (*e.g.*, the value of free  
23 meals) should have been incorporated into the regular rate of pay during the Class Period, which  
24 Defendant contends was not required under the law. Defendant further contended that any failure to  
25 pay wages was not willful and therefore would not support the imposition of waiting time penalties or a  
26 finding that any wage statement violation was knowing and intentional. Defendant contended, even  
27 assuming there was a finding supporting the imposition of PAGA penalties, that the Court would likely  
28 exercise its discretion to substantially reduce any such penalties owed based on evidence of good faith

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

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

23 7. My office, including my partner, Galen T. Shimoda, my senior associate, Brittany V.  
24 Berzin, our paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of  
25 the claims and potential damages for such claims. The parties engaged in formal and informal discovery  
26 and exchange of documents, including but not limited to contact information for Class Members,  
27 Defendant's relevant policies for the entirety of the statute of limitations applicable to the alleged  
28 claims, and time records and payroll data for approximately 75% of Class Members. Although the

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

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

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

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

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

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

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

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

1 calculation. *See* 29 C.F.R. §548.3(d); 29 C.F.R. § 548.304. If Defendant prevailed on  
2 its argument, the value of this claim would be \$0.

- 3 • Wage Statement: This claim is derivative of the overtime, meal, rest, and paid sick time  
4 claims. It is based on allegations that the wage statements issued to Class Members  
5 included inaccurate hourly rates due to Defendant's failure to correctly calculate Class  
6 Members' regular rates of pay. At the time of mediation, the maximum possible  
7 damages for this claim based on Defendant's records was \$197,075. This amount does  
8 not take into account any potential risks with respect to Plaintiff proving the merits or  
9 damages. Again, this claim largely rests on Plaintiff's ability to show the value of free  
10 meal periods should have been included in the regular rate of pay. If not, there can be  
11 no wage statement penalties that derive from Plaintiff's overtime and paid sick time  
12 claims or Plaintiff's meal and rest period claims post June 2019. The strongest portion  
13 of this claim arises from a failure to pay meal and rest period premiums at the correct  
14 rate up to June 2019, which at the time of mediation resulted in damages of \$18,600.  
15 However, there is also a substantial risk that a trier of fact or the Court would find to the  
16 extent wage statements were inaccurate, it was not due to a knowing and intentional  
17 failure of Defendant as required by Labor Code section 226(e)(1). Moreover, there is a  
18 split of authority regarding whether an employer's good faith belief it is not violating the  
19 law precludes a finding of a knowing and intentional violations. Because it was not  
20 conclusively established that meal and rest period premiums were required to be paid at  
21 the regular rate of pay until May 2022 when the Supreme Court issued its decision in  
22 *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022), it is possible  
23 Defendant had a good faith belief it was not violating the law. Accordingly, a more  
24 realistic range of recovery for this claim is approximately \$0 to \$18,600.
- 25 • Waiting Time: This claim is derivative of the overtime, meal, rest, and paid sick time  
26 claims. It is based on allegations that Class Members had wages due and owing to them  
27 that remained unpaid after the end of their employment due to Defendant's failure to  
28 correctly calculate Class Members' regular rates of pay. Because this claim is



1 derivative, it carries the same risks identified for Plaintiff’s overtime, meal and rest  
2 period, and paid sick time claims. At the time of mediation, the maximum possible  
3 damages for this claim based on Defendant’s records was \$2,052,000. This amount does  
4 not take into account any potential risks with respect to Plaintiff proving the merits or  
5 damages. Plaintiff’s failure to prevail on any of the above claims would reduce the  
6 number of former Class Members with unpaid wages who would be eligible to recover  
7 waiting time penalties. Further, there is a substantial risk that Defendant’s belief it  
8 correctly calculated Class Members’ regular rates of pay would cause a trier of fact to  
9 find the failure to pay wages was not willful or that Defendant had a good faith  
10 affirmative defense, which would eliminate the value of this claim entirely. *See* Labor  
11 Code § 203 (a good faith dispute that any wages are due will preclude imposition of  
12 waiting time penalties); *Estrada v. Royal Carpet Mills, Inc.*, 76 Cal.App.5th 685, 729  
13 (2022) (“A good faith dispute that any wages are due occurs when an employer presents  
14 a defense, based in law or fact, which if successful, would preclude any recovery on the  
15 party of the employee.”) (internal citations omitted); *Kao v. Joy Holiday*, 12 Cal. App.  
16 5th 947, 963 (2017) (a good faith dispute as to whether an employee is exempt will  
17 preclude an award of waiting time penalties). The maximum possible damages at the  
18 time of mediation for the portion of this claim arising from Plaintiff’s strongest  
19 argument, that Defendant did not correctly pay meal and rest period premiums prior to  
20 June 2019, was \$738,000. However, as mentioned above, it was not conclusively  
21 established until May 2022 that meal and rest period premiums were required to be paid  
22 at the regular rate of pay. *See Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93  
23 (2022). Taking these factors into account, a more realistic range of recovery for this  
24 claim is approximately \$0 to \$738,000.

- 25 • PAGA: This claim is derivative of the Labor Code violations identified above. Based on  
26 our research, we did not find any prior Labor Commissioner or court decisions that  
27 stated Defendant’s practices and/or policies were improper. As such, a “subsequent  
28 violation” may not be found for penalty calculation purposes, and the exposure analysis

1 here is based on an “initial violation” valuation being adopted by any fact finder if this  
2 matter went to trial. Based on the data, the total exposure for this claim is \$2,312,950.  
3 This amount does not take into account any of the potential risks associated with this  
4 claim. Because this claim is derivative, it carries all the same risks identified in the  
5 claims above. I also believe the Court may exercise its discretion to reduce PAGA  
6 penalties in this case because the underlying amount of alleged unpaid wages was very  
7 small, a majority of the civil penalties sought would be in addition to amounts owed for  
8 substantive violations, and Defendant contends it had a good faith belief it was  
9 following the law, which a Court may find resulted in a good faith dispute that Class  
10 Members are owed any associated penalties. Courts are statutorily authorized to use  
11 discretion to reduce penalties and the range of discretion used varies substantially. *See*  
12 *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30%  
13 reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, \*9 (C.D. Cal.  
14 2011) (82% reduction). Thus, the total exposure may be cut to approximately  
15 \$1,619,065 (30% reduction) to \$416,331 (82% reduction) or lower. It is important to  
16 note that this discretionary reduction is completely separate and in addition to any risks  
17 on the merits. Given the substantial risks, and the disputed nature of the claims, we  
18 believe the amount that might ultimately be awarded under this claim would be  
19 significantly lower than our maximum exposure calculation. Allocating \$10,000 to the  
20 PAGA claims in this case is appropriate, especially in light of amounts that Courts have  
21 approved as reasonable valuations in other cases. *See Nordstrom Com. Cases*, 186  
22 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims  
23 based on their being disputed and being part of a class settlement which was evaluated  
24 based on the terms of the agreement overall); *Davis v. Cox Commc’ns California, LLC*,  
25 2017 U.S. Dist. LEXIS 63514, \*1 (S.D. Cal. 2017) (preliminarily approving \$4,000  
26 PAGA allocation in \$275,000 settlement); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S.  
27 Dist. LEXIS 118764, \*6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in  
28 \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS

53416, \*2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, \*9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at \*7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at \*14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at \*1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

10. To summarize, I have determined that the maximum damages for the asserted class claims is approximately \$770,540.46 to \$2,304,734.74, which is inclusive of interest on amounts for alleged unpaid wages. Taking into account the value of the PAGA claim with a potential 82% reduction to the penalty amount, the maximum possible total damages would be approximately \$1,186,871.46 to \$2,721,065.74. Plaintiff's \$295,000 gross recovery under the Agreement represents approximately 10.8% to 24.9% of the maximum likely recovery in this matter. After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees (\$103,250) and costs (\$31,500<sup>1</sup>), any Enhancement Payment to the Class Representative (\$10,000), Settlement Administrator Costs (\$20,000<sup>2</sup>), and the PAGA Payment to the LWDA (\$7,500), the net recovery under the Agreement, \$120,250, represents approximately 4.4% to 10.1% of the maximum likely value in this matter. I believe the Agreement represents a reasonable compromise of claims based on the legal and factual disputes in this case. The average net award is approximately \$122.70 (\$120,250 net settlement/980 Class Members). The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this Agreement.

11. Under the Agreement, for payment allocation purposes only, Class Members will be divided into two subclasses: (1) Class Members who worked between October 4, 2018, and June 2,

<sup>1</sup> Plaintiff's anticipated final costs are \$29,051.07.

<sup>2</sup> The anticipated Settlement Administrator costs are \$18,535.39.

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

16 12. On or about February 14, 2023, the United States District Court for the Northern District  
17 of California granted final approval of a class action settlement in a related case against Hyatt  
18 Corporation, *Crump v. Hyatt Corporation*, Case No. 4:20-cv-00295-HSG. The scope of the *Crump*  
19 settlement included all current and former non-exempt, hourly employees working for Hyatt  
20 Corporation in California at any time between December 6, 2015 through June 9, 2019, which includes  
21 many of the individuals covered by the settlement in this case. The class included approximately  
22 15,870 individuals. The *Crump* action was based on allegations that Hyatt Corporation failed to pay its  
23 employees all wages owed due to an unlawful rounding policy and practice and was liable for  
24 derivative statutory and civil penalties. The gross settlement amount was \$990,000. The released  
25 claims in the *Crump* action included:

26  
27 all claims asserted or that could have been asserted based on the facts and  
28 theory that Defendant or any of the Released Parties maintained a  
timekeeping system that unlawfully rounded time as alleged in the Second  
Amended Complaint in the Action, including those for: (1) all claims for

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

14 The average recovery per class member based on the net settlement amount in the *Crump* case was  
15 \$26.08 (\$413,841.44/15,870). As stated above, the settlement in this case is estimated to provide an  
16 average net recovery per class member of \$122.70, which is roughly 470% higher than the *Crump* net  
17 recovery. This is further evidence that the Agreement in this case represents a reasonable compromise  
18 of claims.

19 13. I am not aware of any other cases that will be affected by the settlement in this case. I  
20 am not aware of any other individual cases brought by Class Members against Defendant for the  
21 regular rate of pay issue alleged in this lawsuit. Instead, there have been several class actions filed  
22 asserting wage and hour claims, including the *Crump* case, which resolved all other types of wage and  
23 hour claims that could be asserted, aside from those raised in this case. This indicates that the preferred  
24 method of resolving claims by Class Members is through class action litigation, rather than individual  
25 litigation.

26 14. In agreeing to represent Plaintiff and take on the case for all Class Members, our office  
27 agreed to take this case on a contingency basis, meaning that we would take a percentage of any  
28 settlement or judgment should we recover a monetary amount. We took a risk that we would not

1 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case  
2 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to  
3 make sure employees are able to find affordable representation in order to ensure that employers are  
4 complying with all their legal obligations towards employees and paying employees all their hard-  
5 earned wages.

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

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

1 (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept.  
2 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County  
3 Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a  
4 Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the  
5 Sacramento County Bar Association Labor and Employment Law Section's executive committee in  
6 2019 and was the Chair of the executive committee for 2022. I have also been a member of the  
7 Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August  
8 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA  
9 claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the  
10 complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently  
11 litigating, including the instant case, includes, but is not limited to, the following:

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

- 1 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.  
2 Ct.);
- 3 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.  
4 Sup. Ct.);
- 5 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 6 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.  
7 Ct.);
- 8 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 9 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-  
10 00209613 (Sac. Sup. Ct.);
- 11 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 12 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-  
13 00222101 (Sac. Sup. Ct.);
- 14 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 15 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 16 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 17 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 18 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 19 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.  
20 Ct.);
- 21 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 22 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 23 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- 24 • *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 25 • *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- 26 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 27 • *Hellum v. AI Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- 28 • *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);



- 1 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- 2 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 3 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 4 • *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- 5 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 6 • *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- 7 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 8 • *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-  
9 EFB (E.D. Cal.);
- 10 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 11 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 12 • *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 13 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-  
14 00082201 (Sac Sup. Ct.);
- 15 • *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- 16 • *Salmon v. Ovations Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.) ;
- 17 • *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- 18 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 19 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 20 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 21 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.  
22 Sup. Ct.);
- 23 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- 24 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

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

27 18. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in  
28 assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of

1 plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda  
2 attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a  
3 B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the  
4 University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He  
5 graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and  
6 Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of  
7 employment law articles for journals and our firm regularly publishes articles on our firm's website.  
8 Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)  
9 Employment Review seminars from 2014 to the present. His speaking engagements include the  
10 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual  
11 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the  
12 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in  
13 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)  
14 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law  
15 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class  
16 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,  
17 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the  
18 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour  
19 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance  
20 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –  
21 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento  
22 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of  
23 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and  
24 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -  
25 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);  
26 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a  
27 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,  
28

1 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized  
2 as a Super Lawyer from 2014 to present.

3 19. Mr. Shimoda has practiced law in California since being admitted to the State Bar in  
4 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.  
5 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &  
6 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is  
7 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and  
8 Federal Courts, including up to certification, settlement, preliminary and final approval, and  
9 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.  
10 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel  
11 include the following:

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

- 1 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 2 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 3 Ct.);
- 4 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 5 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 6 00209613 (Sac. Sup. Ct.);
- 7 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 8 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 9 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- 10 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
- 11 (San Joaquin Sup. Ct.);
- 12 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- 13 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.
- 14 Sup. Ct.);
- 15 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 16 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 17 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.
- 18 Sup. Ct.);
- 19 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 20 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 21 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 22 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 23 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 24 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 25 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 26 • *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- 27 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 28 • *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);

- 1 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 2 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 3 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
- 4 Sup. Ct.);
- 5 • *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- 6 • *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- 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 • *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- 10 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
- 11 00082201 (Sac Sup. Ct.);
- 12 • *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac.
- 13 Sup. Ct.);
- 14 • *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- 15 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 16 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 17 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.
- 18 Sup. Ct.);
- 19 • *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- 20 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- 21 • *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- 22 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

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

26 21. My senior associate, Brittany V. Berzin, Esq., also worked with me on this matter and  
27 was critical in assisting with all aspects of the litigation of this case. Ms. Berzin attended and graduated  
28 college from U.C. Davis, receiving a Bachelor of Arts in Psychology. She received her J.D. from the

1 University of the Pacific McGeorge School of Law. She joined Shimoda & Rodriguez Law, PC as a  
2 law clerk in February 2015 where she gained civil litigation experience working on individual, class  
3 action and PAGA employment cases throughout law school. She also participated in an employment  
4 law clinic in 2015 and 2016 that helped low-income workers by providing free legal consultations,  
5 advising employees of their legal remedies on a variety of matters (*e.g.*, wage and hour,  
6 discrimination/harassment, California leave laws, unemployment, workers' compensation, retaliation,  
7 and wrongful termination, etc.) under the supervision of an attorney, preparing wage claims, and  
8 providing representation in wage claims before the California Labor Commissioner. From 2016-2017,  
9 she completed an externship at the Federal Public Defenders Office as a Certified Law Student where  
10 she obtained discovery, completed legal research, drafted motions, negotiated plea deals, represented  
11 clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and  
12 defended a client against five misdemeanor charges in a jury trial in the United States District Court for  
13 The Eastern District of California. Ms. Berzin was also a member of the nationally recognized  
14 McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018 after  
15 graduating from law school. In May 2017, she graduated from the University of the Pacific, McGeorge  
16 School of Law with Great Distinction and was inducted into the Order of the Coif, graduating in the top  
17 10% of her class. Ms. Berzin received the Witkin Award for Academic Excellence in Legal Research  
18 and Writing, Civil Procedure, Bankruptcy, and Criminal Procedure. From 2020 to present, she has  
19 been recognized as a Super Lawyer (Rising Star). Ms. Berzin has been a member of the executive  
20 committee of the Sacramento County Bar Association Labor & Employment Section since January  
21 2020, serving as Co-Chair of the committee in 2021. She has over seven years of experience working  
22 on civil litigation in employment law matters. Most of that experience has been specific to analyzing  
23 and litigating wage and hour claims. As an associate, Ms. Berzin has worked on a variety of individual,  
24 class action, and PAGA cases involving wage and hour claims, such as failure to pay overtime, failure  
25 to pay minimum wages, failure to provide meal and rest periods, failure to pay reimbursement  
26 expenses, unlawful deductions, failure to keep accurate time records, failure to provide paid sick leave,  
27 failure to pay all wages upon separation, unfair competition, breach of contract, independent contractor  
28

1 misclassification, and salaried misclassifications. Some of the class action and/or PAGA cases she is  
2 litigating and/or have litigated as lead or co-counsel, including this case, are as follows:

- 3 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin  
4 Sup. Ct.);
- 5 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- 6 • *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin  
7 Sup. Ct.);
- 8 • *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.  
9 Cal.);
- 10 • *Blair v. Clark Wagaman Designs*, Case No. 34-2021-00313156 (Sac. Sup. Ct.);
- 11 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 12 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 13 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 14 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 15 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 16 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 17 • *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- 18 • *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- 19 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 20 • *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 21 • *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- 22 • *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- 23 • *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- 24 • *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- 25 • *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- 26 • *Magat v. Medical Care Professionals, Inc., et al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- 27 • *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup.  
28 Ct.);

- 1 • *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- 2 • *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup.
- 3 Ct.);
- 4 • *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac.
- 5 Sup. Ct.);
- 6 • *Neufield v. Professional Transportation, Inc.*, Case No. 34-2021-00309849 (Sac. Sup. Ct.);
- 7 • *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- 8 • *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);
- 9 • *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- 10 • *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup.
- 11 Ct.);
- 12 • *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- 13 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 14 • *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- 15 • *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);
- 16 • *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup.
- 17 Ct.);
- 18 • *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac.
- 19 Sup. Ct.);
- 20 • *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and
- 21 • *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

22 22. My office is requesting attorneys' fees pursuant to the common fund doctrine pursuant  
23 to *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v.*  
24 *Graultry*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980).  
25 Plaintiff and Plaintiff's Counsel have been able to secure an identifiable benefit on behalf of the class  
26 and equity counsels that the cost of the representation should be born equally amongst all class  
27 members receiving these benefits. The settlement recovery provides a good result in light of the risks  
28 and is the product of substantial time and effort in analyzing the facts and law applicable to this case.



1 There was substantial risk in agreeing to take this case on a contingency basis and as a class action with  
2 the possibility that my office would not receive any compensation their time and efforts due to issues  
3 regarding the merits and/or certification and have carried that risk over the course of the case. In this  
4 case, I am requesting fees in the amount of thirty-five percent (35%) of the common fund, which I  
5 anticipate will result in a negative multiplier. This amount is reasonable given the numerous hours my  
6 office spent on this case and the result obtained for Class Members, which exceeds the full value of any  
7 substantive wage loss. Moreover, the net recovery per class member is 470% higher than the net  
8 recovery per class member in the *Crump* action.

9 23. Plaintiff will submit a motion for final approval and a motion for attorneys' fees and  
10 costs providing additional information to enable a lodestar cross check of the requested fee, a detailed  
11 declaration from Plaintiff regarding her time spent on the case as well as any risks and burdens incurred  
12 as the Class Representative to support her enhancement amount, an updated itemized costs spreadsheet,  
13 and a declaration from the Settlement Administrator detailing the work performed and Settlement  
14 Administrator Costs incurred.

15 24. I have used several class action administrator companies in the wage and hour class  
16 actions I have resolved in the past and believe CPT Group is best suited to administer the proposed class  
17 settlement in this case. I obtained quotes from ILYM Group, Inc., Phoenix, and CPT Group. CPT  
18 Group provided the lowest quote. I have also verified that CPT Group is able to provide the services  
19 required for this case and has strict protocols in place to protect Class Members' information. CPT  
20 Group has provided a quote for the estimated maximum cost of administering the class settlement of  
21 \$12,750. A true and correct copy of a cost estimate provided by CPT Group is filed with this Motion as  
22 Exhibit D. However, the difference between the actual, lesser costs and \$20,000, if any, will be paid to  
23 the participating Class Members on a pro rata basis.

24 25. A true and correct copy of excerpts from the deposition of Defendant's Person Most  
25 Knowledgeable, Valerie Saito, is being filed with this Motion as Exhibit H.

26 26. A copy of the Agreement and the entire Motion was submitted to the LWDA for review  
27 at the same time the Motion was submitted to the Court pursuant to California Labor Code section  
28 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were

1 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as  
2 Exhibit G.

3 27. A true and correct copy of the proposed Notice of Settlement is being filed with this  
4 Motion as Exhibit F.

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

8 29. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was  
9 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,  
10 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,  
11 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in  
12 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,  
13 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services  
14 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*  
15 *pres* funds from several jurisdictions in the State of California, including from Sacramento County  
16 Superior Court.

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

27 31. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a  
28 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the

1 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-  
2 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with  
3 workers and advises them as to the available legal remedies. In addition to individual counseling on  
4 employment issues, the CFWR educates workers, unions, and community members about workplace  
5 laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

6 32. The CFWR provides limited representation for low-wage workers in wage claims before  
7 the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety  
8 of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic  
9 workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay  
10 overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The  
11 CFWR helps workers navigate the wage claim process before the California Labor Commissioner  
12 through advice given at its legal consultation clinics and/or, in some cases, through representing workers  
13 in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated  
14 towards assisting low-wage workers with wage claims and enforcing the California Labor Code with  
15 respect to those wage claims.

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

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

20 35. I have volunteered for both organizations numerous times over the past several years,  
21 either directly in the advice clinics or by presenting seminars on wage and hour laws for law students  
22 seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB’s advisory  
23 committee. These organizations are non-profits that assist low-income workers throughout California,  
24 giving free legal advice regarding employment law issues and representing employees with wage claims  
25 before the California Labor Commissioner. I have witnessed firsthand the quality service and attention  
26 these entities provide to individuals in need of employment law advice and representation at the  
27 California Labor Commissioner.

28

1           36.     Brittany V. Berzin has never done any work, volunteer or otherwise, with CPB. During  
2 law school, Ms. Berzin was a student volunteer for the CFWR for two summers. Since graduating law  
3 school, she has volunteered for the CFWR approximately one to two times per year, assisting in the  
4 advice clinic. Recently, Ms. Berzin volunteered to be on the Board of Directors and is currently the  
5 Chair, which is an unpaid position. As Chair, Ms. Berzin is one of seven Board Members, who are all  
6 from different law firms and/or local public and private organizations. No compensation or benefits,  
7 monetary or otherwise, are provided to any Board Member or organization a Board Member is  
8 associated with. The Executive Director of the CFWR supervises, directs, and controls the day-to-day  
9 operations of the CFWR, not Ms. Berzin or the Board of Directors. As Chair, Ms. Berzin's additional  
10 duties include scheduling meetings, drafting meeting agendas and presiding over meetings.

11 Furthermore, CFWR has not, and does not, provide any referrals to Shimoda & Rodriguez Law, P.C.

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

18           38.     Neither my firm, myself, Ms. Berzin, nor Mr. Shimoda have ever received any  
19 compensation, direct or indirect, for designating CFWR or CPB as *cy pres* beneficiaries or in connection  
20 with any of the volunteer work we have done with the organizations.

21           39.     Plaintiff is waiving all of her individual claims beyond Release Class Claims asserted in  
22 the lawsuit. An individual settlement agreement has been entered into between Plaintiff and Defendant  
23 memorializing this waiver of claims. No separate or additional consideration is being paid to Plaintiff  
24 for that release beyond what is identified in the Agreement (*i.e.* the Individual Settlement Amount and  
25 the Class Representative Enhancement). All terms, definitions, and conditions for payment within the  
26 Agreement are incorporated into the individual settlement agreement.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct. Executed on October 5, 2023, in Sacramento, California.

3  
4 /s/ Justin P. Rodriguez

Justin P. Rodriguez

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