

1 Galen T. Shimoda (Cal. State Bar No. 226752)  
Justin P. Rodriguez (Cal. State Bar No. 278275)  
2 Brittany V. Berzin (Cal. State Bar No. 325121)  
**Shimoda & Rodriguez Law, PC**  
3 9401 East Stockton Boulevard, Suite 120  
Elk Grove, CA 95624  
4 Telephone: (916) 525-0716  
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff MAURECE MARTIN  
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8 **SUPERIOR COURT OF CALIFORNIA**  
9  
10 **FOR THE COUNTY OF SACRAMENTO**

11 MAURECE MARTIN, individually and on  
behalf of all other similarly situated  
12 employees,

13 Plaintiff,

14 vs.

15 WESTERN ENGINEERING  
CONTRACTORS, INC., a California  
16 Corporation; and DOES 1 to 100, inclusive,  
17 Defendants.

**Case No. 34-2023-00334816**

*Assigned for All Purposes to Hon. Jill Talley,  
Department 23*

**CLASS ACTION**

**DECLARATION OF BRITTANY V. BERZIN  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION AND PAGA SETTLEMENT**

Reservation No. A-334816-001

Date: March 29, 2024  
Time: 9:00 a.m.  
Dept.: 23  
Judge: Hon. Jill Talley

Filed: February 15, 2023  
FAC Filed: May 25, 2023  
Trial Date: None set

1 I, Brittany V. Berzin, 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 Maurice Martin (“Plaintiff”) herein. I am making this  
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff’s  
5 Motion for Preliminary 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 Western Engineering Contractors, Inc. (“Defendant”) failed to pay overtime, failed to  
10 pay minimum wages, failed to provide meal and rest periods or pay premiums in lieu thereof, failed to  
11 provide accurate wage statements, failed to timely pay final wages, failed to reimburse expenses, failed  
12 to pay accrued vacation, and unfairly competed against other businesses. Plaintiff also alleged liability  
13 for civil penalties under the Private Attorneys General Act (“PAGA”). These claims were based on  
14 allegations that Defendant violated California law by 1) failing to accurately record and maintain  
15 employees’ hours worked; 2) failing to pay for all hours worked, including travel time, overtime and  
16 minimum wages; 3) failing to authorize and permit putative class members to take all meal and rest  
17 periods; 4) failing to include the inclusive dates of the pay period and employees’ last 4 digits of their  
18 social security number or employee identification number on wage statements issued to putative class  
19 members; 5) failing to incorporate the value of prevailing wage rates into employees’ paid sick leave  
20 and regular rates of pay for the purpose of calculating overtime wages on non-prevailing wage jobs; 6)  
21 failing to reimburse the use of personal cell phones and vehicles; and 7) failing to pay accrued and  
22 unused vacation pay at all or at an employee’s final regular rate of pay at the time of separation. The  
23 PAGA, waiting time penalty, wage statement violation, and unfair competition claims also derive from  
24 these violations.

25 3. Plaintiff is the only named representative in this matter. From our initial investigations  
26 of Plaintiff’s claims and documents, we believed these claims had merit and could be maintained as a  
27 class action. We filed the action on or about February 15, 2023. Plaintiff filed a First Amended  
28 Complaint on May 25, 2023 to add a PAGA claim. Plaintiff submitted a stipulation and order on

1 February 12, 2024, for leave to file a Second Amended Complaint to match the scope of the resolution  
2 reached by the Parties, adding claims for unpaid travel time, failure to reimburse expenses and failure  
3 to pay accrued vacation. A true and correct copy of Plaintiff's proposed Second Amended Complaint  
4 is filed with this Motion as Exhibit B. Plaintiff exhausted administrative remedies through the Labor  
5 and Workforce Development Agency ("LWDA") prior to amending the Complaint to add a PAGA  
6 claim. Plaintiff filed a notice with the LWDA on February 14, 2023, setting forth the facts and theories  
7 of liability. Plaintiff sent amended notices on November 29, 2023 and December 6, 2023 to add  
8 additional claims to match the scope of the resolution at mediation and to clarify the scope of the claim  
9 period. A true and correct copy of the operative notice filed with the LWDA is being filed with this  
10 Motion as Exhibit C. Copies of the notices were also sent to Defendant via certified mail and the  
11 \$75.00 filing fee was remitted to the LWDA. There was no response by the LWDA regarding its intent  
12 to investigate the claims alleged in Plaintiff's notices for more than 65 days. As such, Plaintiff was  
13 authorized to commence a civil action under the PAGA.

14 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

15 5. Defendant is represented in this matter by Cook Brown, LLP. From the beginning,  
16 Defendant has contested the merits of this case, the suitability of the case for class action or  
17 representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a violation  
18 in each pay period for each employee among other defenses and contentions they made challenging the  
19 propriety of this action. Defendant further contended, even assuming there was a finding supporting  
20 the imposition of PAGA penalties, that the Court would likely exercise its discretion to substantially  
21 reduce any such penalties owed based on evidence of good faith attempts to comply with California  
22 Labor Code obligations by Defendant. Notwithstanding its agreement to settle this matter, Defendant  
23 believes the practices Plaintiff is contending are unlawful either do not exist or, to the extent they do  
24 exist, fully comply with all state and federal employment laws with respect to Plaintiff and Class  
25 Members. Also, Defendant has contended that this matter is not appropriate for class certification  
26 outside of this proposed class settlement. For instance, Defendant contended that to the extent the  
27 hours recorded for Class Members did not capture all work performed or any meal periods that were  
28 missed, it did not have any knowledge of this because Defendant would have Class Members review

1 and sign their timesheets and certify that their hours were correct and that they had received all meal  
2 and rest breaks. Defendant produced a policy it maintained requiring Class Members to report any  
3 errors on time records to supervisors. In addition, Defendant produced written meal and rest period  
4 policies it contended were legally compliant. Further, Defendant updated the format of wage  
5 statements given to employees in July 2022 to ensure the pay periods and an employee ID or last four  
6 of employees' social was on the statements. Defendant also changed its regular rate of pay calculation  
7 in July 2022 and contended that after July 2022 there were no miscalculations for the regular rate of  
8 pay. Finally, Defendant represented that approximately 90 out of 180 Class Members signed  
9 arbitration agreements and that Class Members who signed arbitration agreements that waived their  
10 ability to pursue claims on a class basis. The Class Members covered by the Agreement only include  
11 employees who did not sign arbitration agreements containing a class action waiver.

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

1           7.       My office, including the partners Galen T. Shimoda and Justin P. Rodriguez, our  
2 paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the claims  
3 and potential damages for such claims. The parties engaged in informal discovery and exchange of  
4 documents, including a representative sampling of employee data, such as timecards, paystubs, payroll  
5 data and relevant policies for the entirety of the statute of limitations applicable to the alleged claims.  
6 The discovery covered all aspects of the asserted claims, including certification issues, merits issues,  
7 damages, the scope and configuration of Class Members, the content and implementation of the wage  
8 and hour policies at issue, issues relating to manageability concerns at trial, among other relevant areas.  
9 From this production we were able to determine information critical to a reliable damages analysis such  
10 as the average hourly rate, average daily hours worked, average number of workweeks and pay periods  
11 that had potential violations based on the asserted claims, the frequency with which violations occurred  
12 in a given week and/or pay period, and the number of former employees. This information allowed my  
13 office to assess both liability and damages and create an accurate damages model. Plaintiff assisted in  
14 all aspects of this litigation including providing factual information relating to Plaintiff's and Class  
15 Members' employment conditions, providing a substantial number of documents, and answering  
16 questions regarding Defendant's factual contentions in this matter. This was important because it  
17 directly related to our ability to maintain this case as a class action and our ability to obtain a favorable  
18 settlement for the class.

19           8.       Throughout this litigation our office had numerous communications with Defendant's  
20 Counsel discussing our respective positions. The parties engaged in mediation on October 9, 2023 using  
21 an experienced mediator, Russ J. Wunderli, Esq. It was only after approximately eight months of  
22 extensive, arm's length negotiations that the parties were able to reach a settlement, which only occurred  
23 after a full-day mediation. The negotiations were at all times contentious and adversarial, though still  
24 professional in nature.

25           9.       The following represents the potential maximum recovery for each of Plaintiff's claims  
26 based on my office's analysis of Defendant's relevant policies and the data produced by Defendant,  
27 including a sample of time and payroll records for Class Members. There were 3,861 workweeks in the  
28

1 Class Period (weeks worked by employees who did not sign arbitration agreements) and 5188 pay  
2 periods in the PAGA Claim Period:

- 3 a) Minimum Wages: This claim is based on allegations that Defendant failed to pay Class  
4 Members for all hours worked due to its failure to accurately record Class Members'  
5 hours worked. This claim is also based on the allegation that Defendant required Class  
6 Members to travel long distances to various jobsites and did not pay for all travel time.  
7 At the time of mediation, the maximum possible damages for this claim based on  
8 Defendant's payroll records was \$50,193. This was calculated based on an estimate of  
9 one unpaid hour per week. This amount does not take into account any potential risks  
10 with respect to Plaintiff proving the merits or damages. In order to be liable for off-the-  
11 clock work, an employer must know or have reason to know it was occurring.  
12 *Brinker Rest. Corp. v. Superior Ct.*, 53 Cal.4th 1004, 1051 (2012). Defendant produced  
13 a written policy regarding reporting any timecard errors and also had Class Members  
14 review their records and sign them to certify their accuracy. Defendant contends that  
15 because Class Members certified their hours were correct, it had no knowledge of any  
16 off-the-clock work to the extent any was performed. Defendant further contends that its  
17 policy was to pay employees for any travel time exceeding 90 minutes, which it believes  
18 was lawful. *See e.g.* DLSE Opinion Letter re: "Travel Time Pay for Employee With  
19 Alternative Work Sites," 2003.04.2022 (the DLSE has expressly recognized that  
20 employees in certain occupations, such as the construction industry, "by the nature of  
21 the industry and occupation, are not assigned to a specific workplace and have a  
22 reasonable expectation that they will be routinely required to travel reasonable distances  
23 to job sites on a daily basis."). Taking these factors into account a more realistic range  
24 of recovery for this claim is \$25,096.50 (50% reduction for risk) to \$37,644.75 (25%  
25 reduction for risk).
- 26 b) Overtime & Double Time Wages: This claim is based on allegations that Defendant paid  
27 Class Members different hourly rates within the same workday and/or workweek (due to  
28 them working on public works jobs and non-public works jobs). Plaintiff alleges that

1 Defendant did not properly take into account the different rates paid when it calculated  
2 Class Members regular rates of pay for the purpose of paying overtime. At the time of  
3 mediation, the maximum possible damages for this claim based on Defendant's payroll  
4 records was \$20,422.95 (for overtime) and \$6.18 (for double time). This was calculated  
5 based on a violation rate found in the sample of 23.92% (for overtime) and 0.85% (for  
6 double time). This amount does not take into account any potential risks with respect to  
7 Plaintiff proving the merits or damages. Defendant contends it corrected its regular rate  
8 of pay calculation in July 2022, which would eliminate a portion of the calculated  
9 damages for these claims.

10 c) Sick Time: This claim is based on allegations that Defendant paid Class Members  
11 different hourly rates within the same workday and/or workweek (due to them working  
12 on public works jobs and non-public works jobs). Plaintiff alleges that Defendant did  
13 not properly take into account the different hourly rates paid when it calculated Class  
14 Members regular rates of pay for the purpose of paying sick time. At the time of  
15 mediation, the maximum possible damages for this claim based on Defendant's payroll  
16 records was \$127.47. This was calculated based on a violation rate found in the sample  
17 of 0.62%. This amount does not take into account any potential risks with respect to  
18 Plaintiff proving the merits or damages. Defendant contends it corrected its regular rate  
19 of pay calculation in July 2022, which would eliminate a portion of the calculated  
20 damages for these claims.

21 • Meal Period: This claim is based on allegations that Defendant did not provide Class  
22 Members with all meal periods owed to them or to the extent meal periods were  
23 provided there were occasions where they were not provided until after Class Members'  
24 fifth hour of work. At the time of mediation, the maximum possible damages for this  
25 claim based on Defendant's time and payroll records and anticipated Class Member  
26 testimony was \$374,362.56. This amount was calculated based on an average of four  
27 meal periods being available to Class Members each week and a 60% violation rate.  
28 This amount does not take into account any potential risks with respect to Plaintiff

1 proving the merits or damages. Defendant produced written meal period policies and  
2 contended that it provided Class Members with an opportunity to take meal periods and  
3 that to the extent they were not taken or were taken late it was due to employee choice.  
4 Defendant also disputed Plaintiff's estimated violation rate and argued that to the extent  
5 there were any meal violations the frequency was much lower and that when it had  
6 knowledge of violations premiums were paid. Taking these factors into account, a more  
7 realistic range of recovery for this claim is \$224,617.54 to \$299,490.05 (20% to 40%  
8 reduction).

- 9 • Rest Period: This claim is based on allegations that Defendant did not provide Class  
10 Members with all rest periods owed to them. At the time of mediation, the maximum  
11 possible damages for this claim based on records and anticipated Class Member  
12 testimony was \$374,362.56. This amount was calculated based on an average of four  
13 rest periods being available to Class Members each week and a 60% violation rate. It  
14 can reasonably be assumed that the circumstances that created an employee's inability to  
15 take a meal period on a particular day also would have interfered with their ability to  
16 take a rest period. Thus, the estimated violation rate is the same for rest periods as it  
17 was for meals. This amount does not take into account any potential risks with respect  
18 to Plaintiff proving the merits or damages. Defendant produced written rest period  
19 policies and contended that it provided Class Members with an opportunity to take rest  
20 periods and that to the extent they were not taken it was due to employee choice.  
21 Defendant also disputed Plaintiff's estimated violation rate and argued that to the extent  
22 there were any rest violations the frequency was much lower. Taking these factors into  
23 account, a more realistic range of recovery for this claim is \$224,617.54 to \$299,490.05  
24 (20% to 40% reduction).
- 25 • Wage Statement: This claim is based on allegations that Defendant failed to include all  
26 pay periods and employee ID numbers or the last 4 digits of their social security number  
27 on wage statements. This claim is also derivative of the claims above with regarding to  
28 Plaintiff's allegations that Defendant did not correctly state net and gross wages, total



1 hours worked and correct rates of pay on the wage statements. At the time of mediation,  
2 the maximum possible damages for this claim based on Defendant's data was \$259,400.  
3 This amount was calculated using a \$50 initial violation rate for the 5,188 pay periods in  
4 the claim period. This amount does not take into account any potential risks with  
5 respect to Plaintiff proving the merits or damages. The same risks identified above are  
6 applicable to the derivative allegations of this claim. In addition, Labor Code section  
7 226 requires a knowing and intentional violation and Defendant contends that to the  
8 extent the wage statements it issued to Class Members were incorrect it was not  
9 intentional. Defendant corrected the format of its wage statements in July 2022. Taking  
10 these factors into account, a more realistic range of recovery for this claim is \$51,880 to  
11 \$155,640 (40% to 80% reduction).

- 12 • Waiting Time: This claim is derivative of the failure to pay minimum wages, failure to  
13 pay overtime, failure to pay sick time, and failure to provide meal and rest periods.  
14 Thus, the same risks identified above apply to this claim. At the time of mediation, the  
15 maximum possible damages for this claim based on the data and information provided  
16 by Class Members was \$688,416. This amount was calculated based on information  
17 from Defendant that there were 71 former employees. It was assumed that each  
18 employee had some amount of wages owing to him or her and the penalty was  
19 calculated using a full 30 days. This amount does not take into account any potential  
20 risks with respect to Plaintiff proving the merits or damages. Labor Code section 203  
21 requires that the failure to pay wages be willful in order for a waiting time penalty to be  
22 appropriate. Defendant contends that it cannot be liable for waiting time penalties  
23 because it has a good faith defense. There is substantial risk that Defendant's policies  
24 and records would provide it with a good faith affirmative defense, which would  
25 eliminate the value of this claim entirely. *See Diaz v. Grill Concepts Servs., Inc.*, 23  
26 Cal.App.5th 859, 868 (2018). Taking these factors into account, it is possible this claim  
27 would be eliminated entirely.  
28

1 d) Reimbursement: This claim is based on allegations that Defendant required Class  
2 Members to travel to jobsites using their personal vehicles, which at times were more  
3 than one (1) hour to or from work without reimbursing them for mileage. It is also  
4 based on allegations that Class Members had to use their personal cellphones for work.  
5 At the time of mediation, the maximum possible damages for this claim was \$193,050.  
6 This amount does not take into account any potential risks with respect to Plaintiff  
7 obtaining certification or proving the merits or damages. This amount was calculated  
8 estimating \$50 was not reimbursed each week (combination of personal cellphone use  
9 and mileage). Defendant argues that this claim would not be certified because too many  
10 individual issues of fact predominate. For example, Defendant contends it would  
11 require the Court to scrutinize each Class Member's claimed expenses and whether they  
12 were necessary and incurred in direct consequence of the discharge of the employee's  
13 duties, whether the employee actually sought reimbursement from Defendant, and  
14 whether Defendant reimbursed the expense. Defendant also contends that it provided  
15 Class Members with company trucks and cellphones as necessary for employees' work.  
16 Finally, Defendant produced a written reimbursement policy and contends that if any  
17 necessary expenses were not reimbursed it was because Class Members did not request  
18 reimbursement. Taking these factors into account, a more realistic range of recovery for  
19 this claim is \$0 to \$96,525 (50% reduction).

20 e) Unpaid Accrued Vacation: This claim is based on allegations that at the time of Class  
21 Members' termination, Defendant did not pay Class Members all of their accrued and  
22 unused vacation and/or did not pay for such vacation days at the employee's final rate of  
23 pay. At the time of mediation, the maximum possible damages for this claim was  
24 \$57,368. This amount does not take into account any potential risks with respect to  
25 Plaintiff obtaining certification or proving the merits or damages. This amount was  
26 calculated estimating the 71 former employees were owed 20 hours of accrued vacation  
27 at the average rate of pay (\$40.40). Defendant contends that this claim does not have  
28 any merit. Defendant contends it paid PTO benefits on prevailing wage jobs through

1 hourly contributions to a voluntary employees' beneficiary association ("VEBA") trust  
2 fund, which is permissible under state and federal law. *See* Cal. Labor Code §§ 1773.1;  
3 29 CFR § 5.23. Defendant contends for each hour worked on prevailing wage jobs, it  
4 made a PTO contribution, the amount of which was determined by an independent  
5 actuary, to a VEBA trust fund. Then, at the end of employment, for employees who  
6 have not worked enough hours to qualify for an additional PTO accrual and payout, the  
7 hourly contributions made on behalf of that employee are disbursed. Defendant further  
8 contends these contributions have been accepted by the DLSE in the past. Taking these  
9 factors into account, a more realistic range of recovery for this claim is \$0 to \$28,684  
10 (50% reduction).

11 f) PAGA: This claim is derivative of the Labor Code violations identified above and would  
12 be subject to all the same risks as the underlying claims it is based on. Additionally,  
13 based on our research, we did not find any prior Labor Commissioner or court decisions  
14 that stated Defendant's practices and/or policies were improper. As such, a "subsequent  
15 violation" may not be found for penalty calculation purposes, and the exposure analysis  
16 here is based on an "initial violation" valuation being adopted by any fact finder if this  
17 matter went to trial. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207-  
18 1209 (2008). Based on Class Members' payroll data, the maximum total exposure for  
19 this claim is \$2,940,957.60. This amount does not take into account any of the risks in  
20 proving the merits of the underlying claims that the PAGA damages are based on. In  
21 addition to the risks on the merits and disputes regarding the proper valuation of the  
22 penalty amounts, I believe the Court may exercise its discretion to reduce PAGA  
23 penalties in this case because a majority of the civil penalties sought would be in  
24 addition to amounts owed for substantive violations, some of the violations are due to  
25 technical non-compliance with the Labor Code, such as wage statement violations, and  
26 Defendant produced legally compliant policies among other documents, that a Court  
27 may find demonstrates a good faith attempt at compliance. Defendant also took steps to  
28 remedy potential violations of the law by correcting its regular rate calculations and

1 modifying the format of its wage statements. Courts are statutorily authorized to use  
2 discretion to reduce penalties and the range of discretion used varies substantially. *See*  
3 *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30%  
4 reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, \*9 (C.D. Cal.  
5 2011) (82% reduction). The 82% reduction equates to roughly \$9-\$50 worth of civil  
6 penalties per pay period per employee depending on the total potential value of the civil  
7 penalty (*i.e.* \$50-\$250), which is more in line with actual awards based on my  
8 experience and review of awards in other cases. Thus, even if using the maximum  
9 values possible and setting aside risks of proving the claims on the merits, the total  
10 exposure may be cut to approximately \$529,372.37 (82% reduction) to \$2,058,670.32  
11 (30%) or lower. It is important to note that this discretionary reduction is completely  
12 separate and in addition to any risks on the merits. Given the substantial risks associated  
13 with the claims, we believe the amount that might ultimately be awarded under this  
14 claim would be significantly lower than our maximum exposure calculation. Allocating  
15 \$41,750 to the PAGA claims in this case is appropriate, especially in light of amounts  
16 that Courts have approved as reasonable valuations in other cases. *See Nordstrom Com.*  
17 *Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of  
18 PAGA claims based on their being disputed and being part of a class settlement which  
19 was evaluated based on the terms of the agreement overall); *Junkersfeld v. Med. Staffing*  
20 *Sols., Inc.*, 2022 WL 2318173, at \*8 n.2 (E.D. Cal. 2022) (collecting cases with PAGA  
21 settlement values ranging from .037%-1%); *Jennings v. Open Door Marketing, LLC*,  
22 2018 WL 4773057, \*9 (N.D. Cal. 2018) (approving settlement of PAGA claims at 0.6%  
23 of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016  
24 WL 5462451, \*7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation  
25 where total PAGA penalty exposure was approximately \$5.2 million, or 0.2% of total  
26 estimated value); *Davis v. Cox Commc'ns California, LLC*, 2017 U.S. Dist. LEXIS  
27 63514, \*1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in  
28 \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S. Dist. LEXIS 8358, \*5

1 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award alone  
2 amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764,  
3 \*6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement);  
4 *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, \*2 (S.D. Cal. 2010)  
5 (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands*  
6 *Inc.*, 2009 U.S. Dist. LEXIS 33900, \*9 (N.D. Cal. 2009) (approving \$1,500 PAGA  
7 allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880,  
8 \*34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000  
9 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total  
10 estimated value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at  
11 \*7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement);  
12 *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at \*14 (E.D. Cal. 2012) (\$10,000 in  
13 PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments,*  
14 *LLC*, 2011 WL 672645, at \*1 (N.D. Cal. 2011) (approving PAGA settlement payment of  
15 \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

16 10. In summary, Plaintiff's gross recovery of \$417,500 under the Agreement equals  
17 approximately 8.4% of the maximum likely value of the claims in this matter and between 13.9% and  
18 38.8% of the more realistic range of recovery. After deducting from the Gross Settlement Amount the  
19 proposed allocations for attorneys' fees (\$146,125) and costs (\$10,000)<sup>1</sup>, any Enhancement Payment to  
20 the Class Representative (\$10,000), Settlement Administrator Costs (\$10,000), and the PAGA Payment  
21 to the LWDA (\$41,750), the net recovery under the Agreement, \$199,625, represents approximately  
22 4.0% of the maximum likely value of the claims in this matter. The net recovery also represents  
23 between 6.7% and 18.6% of the more realistic range of recovery. The average net award is  
24 approximately \$2,169.84 (\$199,625/92 Class Members). I believe the Agreement represents a  
25 reasonable compromise of claims based on the legal and factual disputes in this case. The ability to  
26 secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than  
27

28 <sup>1</sup> This calculation uses the maximum cost potential under the Agreement for Class Counsel's costs and the Settlement Administrator's costs. The actual costs will likely be less with the difference being added to the Net Settlement Amount.

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

3 11. In agreeing to represent Plaintiff and take on the case for all Class Members, our office  
4 agreed to take this case on a contingency basis, meaning that we would take a percentage of any  
5 settlement or judgment should we recover a monetary amount. We took a risk that we would not  
6 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case  
7 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to  
8 make sure employees are able to find affordable representation in order to ensure that employers are  
9 complying with all their legal obligations towards employees and paying employees all their hard-  
10 earned wages.

11 12. I am a Senior Associate at Shimoda & Rodriguez Law, PC. Our law firm is a boutique  
12 law practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I  
13 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Psychology. I  
14 received my J.D. from the University of the Pacific McGeorge School of Law. I joined Shimoda &  
15 Rodriguez Law, PC as a law clerk in February 2015 where I gained civil litigation experience working  
16 on individual, class action and PAGA employment cases throughout law school. I also participated in  
17 an employment law clinic in 2015 and 2016 that helps low-income workers by providing free legal  
18 consultations, advising employees of their legal remedies on a variety of matters (*e.g.*, wage and hour,  
19 discrimination/harassment, California leave laws, unemployment, workers' compensation, retaliation,  
20 and wrongful termination, etc.) under the supervision of an attorney, preparing wage claims, and  
21 providing representation in wage claims before the California Labor Commissioner. From 2016-2017,  
22 I completed an externship at the Federal Public Defenders Office as a Certified Law Student where I  
23 obtained discovery, completed legal research, drafted motions, negotiated plea deals, represented  
24 clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and  
25 defended a client against five misdemeanor charges in a jury trial in the United States District Court for  
26 The Eastern District of California. I was also a member of the nationally recognized McGeorge Mock  
27 Trial Team and went on to coach a high school Mock Trial team in 2018 after graduating from law  
28 school. In May 2017, I graduated from the University of the Pacific, McGeorge School of Law with

1 Great Distinction and was inducted into the Order of the Coif, graduating in the top 10% of my class. I  
2 received the Witkin Award for Academic Excellence in Legal Research and Writing, Civil Procedure,  
3 Bankruptcy, and Criminal Procedure. From 2020 to present, I have been recognized as a Super  
4 Lawyer (Rising Star). I have been a member of the executive committee of the Sacramento County Bar  
5 Association Labor & Employment Section since January 2020, serving as Co-Chair of the committee in  
6 2021. I have over seven years of experience working on civil litigation and employment law matters.  
7 Most of that experience has been specific to analyzing and litigating wage and hour claims. As an  
8 associate, I have worked on a variety of individual, class action, and PAGA cases involving wage and  
9 hour claims, such as failure to pay overtime, failure to pay minimum wages, failure to provide meal and  
10 rest periods, failure to pay reimbursement expenses, unlawful deductions, failure to keep accurate time  
11 records, failure to provide paid sick leave, failure to pay all wages upon separation, unfair competition,  
12 breach of contract, independent contractor misclassification, and salaried misclassifications. Some of  
13 the class action and/or PAGA cases I am litigating and/or have litigated as lead or co-counsel include  
14 the following:

- 15 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin  
16 Sup. Ct.);
- 17 • *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- 18 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- 19 • *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin  
20 Sup. Ct.);
- 21 • *Barrrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.  
22 Cal.);
- 23 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 24 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 25 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 26 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 27 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 28 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);

- 1 • *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- 2 • *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- 3 • *Gonzalez v. Northcentral Pizza, LLC, et. al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 4 • *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 5 • *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- 6 • *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- 7 • *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- 8 • *Insixiengmay v. Hyatt Corporation*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal);
- 9 • *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- 10 • *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- 11 • *Magat v. Medical Care Professionals, Inc., et. al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- 12 • *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup.
- 13 Ct.);
- 14 • *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- 15 • *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- 16 • *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup.
- 17 Ct.);
- 18 • *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac.
- 19 Sup. Ct.);
- 20 • *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- 21 • *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);
- 22 • *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- 23 • *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup.
- 24 Ct.);
- 25 • *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- 26 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 27 • *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- 28 • *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);



- 1 • *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup.  
2 Ct.);
- 3 • *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac.  
4 Sup. Ct.);
- 5 • *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and
- 6 • *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

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

10 14. The partner, Justin P. Rodriguez, Esq. also worked with me on this matter and was  
11 critical in assisting with all aspects of the litigation of this case. Mr. Rodriguez attended and graduated  
12 college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for  
13 Academic Achievement in the Philosophy program. He was one of only two recipients of this award  
14 out of the entire Philosophy Department. After U.C. Davis, Mr. Rodriguez attended the University of  
15 the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris Doctorate. He  
16 graduated in the top 20% of his class and was a member of the Traynor Honor Society at McGeorge.  
17 Other academic achievements of his include receiving a Witkin Award (top grade) in his legal research  
18 and writing course, a Witkin Award in complex civil litigation, being a member of the Dean's List from  
19 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from 2009–2010, being  
20 an Associate Comment Editor for the *Pacific McGeorge Global Business & Development Law Journal*  
21 from 2010–2011, and being selected as a Sacramento County Bar Association Diversity Fellow in  
22 2009. Mr. Rodriguez was also a member of the Employment and Labor Law Society and an officer for  
23 the Latino Law Students Association from 2009 to 2010.

24 15. Mr. Rodriguez was an associate of the Shimoda Law Corp from 2011 to 2016 and  
25 became a partner in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022.  
26 Since 2017, he has received an AV Preeminent rating from Martindale-Hubbell for his legal ability and  
27 ethical standards. From 2018 to present, he has been recognized as a Super Lawyer (Rising Star). Mr.  
28 Rodriguez has been a panel speaker and presented a number of seminars covering issues wage and hour

1 litigation in general and complex class and PAGA litigation in particular. These engagements include  
2 the following: (1) *Epic Systems*, PAGA, and the Future of Employment Arbitration in California  
3 (Sacramento County Bar Assoc., Sept. 2018); (2) Class Actions and PAGA Claims (Assoc. of Defense  
4 Counsel of Northern California & Nevada, Jul. 2020); (3) Mediation: The Experienced Trial Lawyers  
5 Perspective (Sacramento County Bar Assoc., Sept. 2020); (4) How to Become a Pivotal Part of Any  
6 Wage and Hour Practice Group (Sacramento County Bar Assoc., Mar. 2021); (5) Emerging Trends and  
7 Issues Relating to Arbitration and PAGA Claims in a Post-*Viking River Cruises* World (Sacramento  
8 County Bar Assoc., Nov. 2022). Mr. Rodriguez was elected to the Sacramento County Bar Association  
9 Labor and Employment Law Section’s executive committee in 2019 and was the Chair of the executive  
10 committee for 2022. Mr. Rodriguez has also been a member of the Presiding Judge Civil Law  
11 Advisory Committee for Sacramento County Superior Court since August 2020. His practice focuses  
12 on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor  
13 Standards Act (“FLSA”) claims. He is actively involved in most of the complex litigation handled by  
14 our firm. Class and/or PAGA actions he has litigated or is currently litigating include, but is not limited  
15 to, the following:

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

- 1 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-  
2 00271174 (Sac. Sup. Ct.);
- 3 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.  
4 Ct.);
- 5 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.  
6 Ct.);
- 7 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.  
8 Sup. Ct.);
- 9 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 10 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.  
11 Ct.);
- 12 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 13 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-  
14 00209613 (Sac. Sup. Ct.);
- 15 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 16 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-  
17 00222101 (Sac. Sup. Ct.);
- 18 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 19 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 20 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 21 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 22 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 23 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.  
24 Ct.);
- 25 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 26 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 27 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- 28 • *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);

- 1 • *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- 2 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 3 • *Hellum v. AI Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- 4 • *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- 5 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- 6 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 7 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 8 • *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- 9 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 10 • *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- 11 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 12 • *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 34-2019-00263185
- 13 (Sac. Sup. Ct.);
- 14 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 15 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 16 • *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 17 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
- 18 00082201 (Sac Sup. Ct.);
- 19 • *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- 20 • *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- 21 • *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- 22 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 23 • *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- 24 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 25 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. 34-2017-00211553 (Sac.
- 26 Sup. Ct.);
- 27 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- 28 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

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

4           17.     The partner, Galen T. Shimoda, Esq. also assisted with this case. Mr. Shimoda  
5 graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in  
6 Asian Studies, with a minor in Japanese language. He then attended and graduated from the University  
7 of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from  
8 McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor  
9 Society. Since graduating from McGeorge, he has authored a number of employment law articles for  
10 journals and regularly publishes articles on our firm's website.

11           18.     He has been a regular panel speaker for the CEB (Continuing Education of the Bar)  
12 Employment Review seminars from 2014 to the present. His speaking engagements include the  
13 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual  
14 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the  
15 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in  
16 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)  
17 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law  
18 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class  
19 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,  
20 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the  
21 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour  
22 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance  
23 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –  
24 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento  
25 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of  
26 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and  
27 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -  
28 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);

1 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a  
2 Venue Roundup (May 17, 2019). He has been AV rated by Martindale Hubbell since 2013, was  
3 recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized as a  
4 Super Lawyer from 2014 to present.

5 19. He has practiced law in California since being admitted to the State Bar in 2003,  
6 litigating wage and hour class actions and individual wage and hour litigation among other cases. He  
7 began practicing class action law on the defense side at the firm of Orrick, Herrington & Sutcliffe LLP.  
8 He then switched to plaintiff class action work in 2005. His class action experience is in wage and hour  
9 law. He has litigated several class action cases in California State and Federal Courts, including up to  
10 certification, settlement, preliminary and final approval, and disbursement of monies, and has been  
11 found to be satisfy the adequacy requirements for class counsel. Some of the class action and/or PAGA  
12 cases he is litigating and/or has litigated as lead or co-counsel over the past nineteen (19) years include,  
13 but are not limited to, the following:

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

- 1 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.  
2 Sup. Ct.);
- 3 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 4 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.  
5 Ct.);
- 6 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 7 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-  
8 00209613 (Sac. Sup. Ct.);
- 9 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 10 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 11 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- 12 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242  
13 (San Joaquin Sup. Ct.);
- 14 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- 15 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.  
16 Sup. Ct.);
- 17 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 18 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 19 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.  
20 Sup. 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 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 24 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 25 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 26 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 27 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 28 • *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);

- 1 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 2 • *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- 3 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 4 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 5 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
- 6 Sup. Ct.);
- 7 • *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- 8 • *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- 9 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 10 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 11 • *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- 12 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
- 13 00082201 (Sac Sup. Ct.);
- 14 • *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac.
- 15 Sup. Ct.);
- 16 • *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- 17 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 18 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 19 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.
- 20 Sup. Ct.);
- 21 • *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- 22 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- 23 • *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- 24 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

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

27 20. In connection with any final approval hearing, I will be seeking attorneys' fees and  
28 costs, an Enhancement Payment to the Class Representative, and Settlement Administrator Costs as set



1 forth in the Agreement. I will be requesting attorneys' fees and costs pursuant to the common fund  
2 doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25,  
3 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston &*  
4 *Hunt v. Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). The facts and case law supporting the requested  
5 amounts will be set forth in the final approval motion, including information for the Court to perform a  
6 lodestar cross check of the requested attorney's fees, quantify the amount of time spent by Plaintiff on  
7 this case and any further risks and/or burdens incurred as a result of acting as Class Representative, an  
8 updated declaration in support of actual litigation costs and itemized cost spreadsheet, and declaration  
9 from the Settlement Administrator detailing the work performed and Settlement Administrator Costs  
10 incurred. My firm's expected costs through final approval are not expected to exceed \$10,000.  
11 Attached as Exhibit E is a true and correct copy of the costs incurred prior to the filing of this Motion  
12 and the expected costs incurred through the final approval and fairness hearing. Any difference in the  
13 awarded fees and costs, Class Representative's Enhancement Payment, and Settlement Administrator  
14 Costs and the amounts allocated for each under the Agreement will be added back to the Net Settlement  
15 Amount and distributed pro rata to Class Members.

16 21. I have used several class action administrator companies in the wage and hour class  
17 actions I have resolved in the past and believe Apex Class Action will provide the best service to  
18 administer the proposed class settlement. The CEO of Apex Class Action, Sean Hartranft, has worked  
19 in the administration industry for a decade and utilizes case managers with considerable experience in  
20 the field. Apex Class Action has procedures in place to protect the security of class data as well as  
21 insurance. Apex Class Action has provided a quote for the estimated maximum cost of administering  
22 the class settlement of approximately \$5,900. A true and correct copy of a cost estimate provided by  
23 Apex Class Action along with information about their data procedures and insurance is filed with this  
24 Motion as Exhibit D. This is only an estimate, and final pricing may vary depending on the issues, if  
25 any, that arise during the administration of the settlement. However, the difference between the actual,  
26 lesser costs and \$10,000, if any, will be paid to the Participating Class Members on a pro rata basis.

27 22. A copy of the Agreement and the entire Motion was submitted to the LWDA for review  
28 at the same time the Motion was submitted to the Court pursuant to California Labor Code section

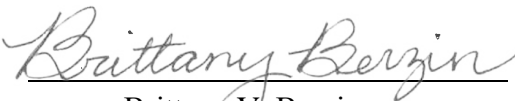
1 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were  
2 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as  
3 Exhibit G.

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

6 24. The designated *cy pres* beneficiary in this case is Sacramento Food Bank and Family  
7 Services. Only those funds that remain from uncashed settlement checks will be sent to the *cy pres*  
8 beneficiaries pursuant to section 5.6 of the Agreement.

9 25. I have spoken with every other attorney at my firm to determine whether they have any  
10 relationship with the proposed *cy pres* beneficiary. No attorney at my firm as done any work, volunteer  
11 or otherwise with Sacramento Food Bank and Family Services. Neither my firm, myself, Mr. Rodriguez  
12 nor Mr. Shimoda have received any compensation, direct or indirect, for designating Sacramento Food  
13 Bank and Family Services California as a *cy pres* beneficiary.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
15 true and correct. Executed on \_\_\_\_\_ in Elk Grove, California.

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18 Brittany V. Berzin  
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