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16 Attorneys for Plaintiff CARLOS MORENO

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 CARLOS MORENO, individually, and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 PRETIUM PACKAGING, L.L.C, a
24 Delaware limited liability company, and
25 DOES 1 through 10, inclusive

26 Defendants

Case No. 8:19-cv-02500-SB-DFM

[Hon. Stanley Blumenfeld, Jr.]

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES AND COSTS**

Date: August 6, 2021
Time: 8:30 a.m.
Courtroom: 6C

1 **DECLARATION OF JUSTIN F. MARQUEZ**

2 I, Justin F. Marquez, declare as follows:

3 1. I am admitted, in good standing, to practice as an attorney in the State
4 of California, the Ninth Circuit Court of Appeals, and the United States District
5 Courts for the Central, Southern, Eastern, and Northern Districts of California. I
6 am a Senior Partner at Wilshire Law Firm, PLC, counsel of record to Plaintiff
7 Carlos Moreno (“Plaintiff”). I have personal knowledge of the facts set forth in this
8 declaration and could and would competently testify to them under oath if called as
9 a witness.

10 2. This Declaration is submitted in support of Plaintiff’s Motion for
11 Attorneys’ Fees and Costs.

12 **Case Background**

13 3. Plaintiff and putative class members worked in California as hourly
14 paid, non-exempt employees for Defendant during the class period. Defendant is a
15 packaging solutions company based in Chesterfield, Missouri, that operates
16 numerous locations throughout the United States, including locations in Anaheim,
17 California and Escondido, California.

18 4. Plaintiff alleges that Defendant’s payroll, timekeeping, and wage-and-
19 hour practices resulted in Labor Code violations. Specifically, Plaintiff alleges that
20 Defendant failed to provide employees with legally compliant meal and rest
21 periods, and failed to pay all required meal and rest period premiums for non-
22 compliant meal and rest periods. Plaintiff also alleges that Defendant failed to pay
23 required double overtime for all hours worked in excess of 12 hours per workday
24 and all worktime greater than 8 hours on the 7th consecutive day worked. Based on
25 these allegations, Plaintiff has included claims for failure to pay overtime wages,
26 failure to provide meal periods, failure to authorize and permit rest periods, failure
27 to provide accurate wage statements, unfair business practices, and civil penalties
28 under the Private Attorneys General Act (“PAGA”).

1 5. Defendant denies Plaintiff's allegations and denies any liability to
 2 Plaintiff and the putative class members. Specifically, Defendant contends that its
 3 wage and hour policies and practices, including those regarding overtime pay, meal
 4 periods, rest periods, record keeping, and pay stubs, are lawful and have been
 5 lawful throughout the entire class period. Defendant also contends that class
 6 certification would be improper in this case.

7 6. Plaintiff Carlos Moreno initiated this wage-and-hour action on behalf
 8 of himself and a putative class in the Orange County Superior Court on November
 9 26, 2019. The initial Complaint alleged the following claims for relief: (1) failure
 10 to pay overtime wages (Cal. Lab. Code §§ 510, 1194, 1198); (2) failure to provide
 11 meal periods (Cal. Lab. Code §§ 226.7, 512); (3) failure to authorize and permit rest
 12 periods (Cal. Lab. Code § 226.7); (4) failure to provide accurate itemized wage
 13 statements (Cal. Lab. Code § 226); and (5) unfair business practices (Cal. Bus. &
 14 Prof. Code §§ 17200 *et seq.*). On August 30, 2017, Defendant removed this action
 15 to federal court pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28
 16 U.S.C. § 1453.

17 7. On February 10, 2020, Plaintiff filed a First Amended Complaint, which
 18 provided additional information and facts regarding Plaintiff's allegations.

19 8. On April 10, 2020, Plaintiff filed a Second Amended Complaint to
 20 modify portions of the allegations and to add an additional cause of action seeking
 21 civil penalties under the Private Attorneys General Act ("PAGA"), California
 22 Labor Code §§ 2698 *et seq.* Prior to filing this action, on November 26, 2019,
 23 Plaintiff sent notice of alleged Labor Code violations to the Labor Workforce
 24 Development Agency ("LWDA"), pursuant to California Labor Code § 2699.3(1).

25 **Discovery and Investigation**

26 9. The Parties have engaged in extensive discovery. On April 7, 2020,
 27 Plaintiff served written discovery, including Requests for Production of Documents
 28 and Interrogatories, on Defendant. The discovery sought information and

1 documents related to, *inter alia*, Defendant's policies and procedures for
2 compensating its employees, recording its employees' worktime, providing meal
3 periods, authorizing and permitting rest periods, and furnishing wage statements.
4 The discovery also sought information and documents pertaining to the
5 identification of the class members.

6 10. On June 8, 2020, Defendant provided written responses to Plaintiff's
7 discovery requests. Defendant subsequently produced more than 8,300 pages of
8 documents between June 8, 2020 and early December 2020 in response to the
9 written discovery. The documents produced by Defendant pertained to Defendant's
10 wage-and-hour policies and procedures, including employee handbooks and other
11 policy documents, personnel files, job descriptions, contact information for the
12 putative class members, and a sampling of putative class member pay and time
13 records.

14 11. Plaintiff's counsel reviewed and analyzed these records and hired an
15 expert to assist in analyzing the putative class members' pay and time records and
16 to prepare a damages model. The expert analyzed the time and pay records for the
17 putative class members at both the Anaheim and Escondido locations to determine
18 whether Defendant paid overtime correctly, paid double overtime correctly,
19 provided timely and compliant meal periods, and provided any premiums for
20 noncompliant meal and rest periods. Plaintiff's expert also calculated the total
21 amount of unpaid double overtime, unpaid overtime, late meal periods, short meal
22 periods, and missed meal periods. Moreover, Plaintiff's expert conducted a
23 detailed analysis of the frequency and severity of the recorded late, short, and
24 missed meal periods based on the time and pay records throughout the class period.
25 In addition to their factual investigation, Plaintiff's counsel investigated the
26 applicable law regarding the claims and defenses to the claims asserted in the
27 litigation. Thus, Plaintiff and his counsel are familiar with the facts of the case and
28 the legal issues raised by the pleadings and were able to act intelligently in

1 negotiating the Settlement.

2 **Settlement Negotiations**

3 12. The Parties engaged in a significant amount of investigation, class-
4 wide discovery, and analysis prior to reaching the proposed settlement. Defendant
5 responded to Plaintiff’s written discovery, provided extensive information on the
6 company’s wage and hour policies and practices, provided the contact information
7 for the Class Members, and produced over 8,300 pages of relevant documents. It
8 was only after the exchange of a substantial amount of data and information that
9 the Parties participated in a full-day mediation session and ultimately reached
10 settlement of the case.

11 13. On December 16, 2020, the Parties participated in private mediation
12 with the experienced neutral Hon. Peter D. Lichtman (Ret.). Judge Lichtman (Ret.)
13 was the former head of the Los Angeles Superior Court Mandatory Settlement
14 Program and served as a chair of the county’s Complex Civil Litigation
15 Department. After extensive negotiations and discussions regarding the strengths
16 and weakness of Plaintiff’s claims and Defendant’s defenses, the Parties were able
17 to reach an agreement at the mediation regarding the key terms and provisions of
18 the settlement. Ultimately, the Parties agreed to a settlement through multiple
19 arm’s length negotiations.

20 14. Under the Settlement Agreement, Pretium will pay \$1,600,000 (“Gross
21 Settlement Amount”) to resolve this litigation.

22 15. On or around February 4, 2021, Pretium confirmed the total class size
23 to be notified is 745 members.

24 **Preliminary Approval and Overwhelming Support for the Settlement**

25 16. The Court granted Plaintiff’s Motion for Preliminary Approval of the
26 Settlement on March 12, 2021. ECF 54. The initial order granting preliminary
27 approval required Plaintiff to file a motion requesting attorneys’ fees and costs by
28 July 16, 2021. *Id.* That deadline meant that the motion for attorneys’ fees and

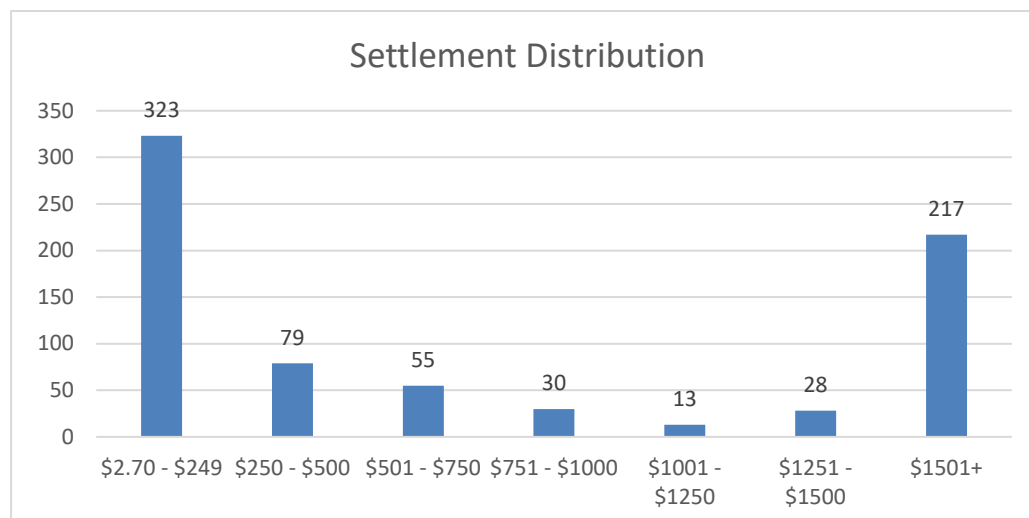
1 costs could be filed after the anticipated deadline of June 24, 2021 for class
 2 members to opt-out or object to the settlement. *See* ECF 55, at 2. However, the
 3 Ninth Circuit has held that class counsel must apply for attorneys' fees before the
 4 deadline for class members to object to a class action settlement. *See In re*
 5 *Mercury Interactive Corp. Securities Litigation*, 618 F.3d 988, 993 (9th Cir. 2010).
 6 As such, the Parties jointly moved the Court to modify the Order. ECF 55.

7 17. On March 25, 2021, the Court entered an Amended Order Granting
 8 Motion for Preliminary Approval of Class Action Settlement, requiring Plaintiff to
 9 file a Motion for Attorneys' Fees and Costs before June 3, 2021. ECF 56.

10 18. Notice went out to 745 class members on April 26, 2021. The
 11 deadline for class members to opt-out or object is June 25, 2021.

12 19. The reaction of the Class to the settlement has been overwhelmingly
 13 positive. Indeed, so far, no class member has opted out of the settlement, and no
 14 class member has objected to the settlement.

15 20. Even after deducting attorneys' fees and costs, administration costs,
 16 and the service awards to the named plaintiff, class members will receive
 17 approximately \$1,321.03 on average and 74 class members will receive the
 18 maximum amount of \$5,240.85. The chart below is a frequency distribution of
 19 each class member's net settlement share:



Attorneys' Fees and Costs

1
2 21. The settlement provides for attorney's fees and costs to Class Counsel
3 in an amount up to one-third (1/3) of the Gross Settlement Amount, for a maximum
4 fees award of \$533,333.33, plus reasonable litigation expenses to be determined by
5 the court.

6 22. Based on my experience, I believe the fees and costs provision of the
7 Settlement Agreement is reasonable. The fee percentage requested is less than that
8 charged by Class Counsel for other employment cases. Class Counsel invested
9 significant time and resources into the case, with payment deferred to the end of the
10 case, and then, of course, contingent on the outcome. Class Counsel's efforts have
11 resulted in substantial benefits to Class Members in the form of a significant
12 settlement fund established to compensate Class Members for Pretium's unlawful
13 wage and hour practices. Without Class Counsel's efforts, the claims as alleged in
14 the complaint would almost certainly have gone without remedy.

15 23. The efforts expended by Class Counsel thus far include, but are not
16 limited to, the following: interviewing Plaintiff; legal research regarding Plaintiffs
17 claims and anticipated defenses; obtaining, reviewing, and analyzing thousands of
18 pages of documents produced by Defendant; propounding written discovery;
19 reviewing written discovery responses; drafting the original, First Amended and
20 Second Amended Complaints; meeting and conferring with Defendant's counsel to
21 obtain relevant documents and information and on other discovery, pleading and
22 class certification issues; retaining an expert to analyze time and payroll data;
23 working with the expert to analyze the data and prepare a damages analysis;
24 drafting Plaintiff's mediation brief; attending a full-day mediation and court
25 hearings; negotiating, drafting, and revising the Stipulation, Class Notice and
26 Dispute Form; drafting the Motion for Preliminary Approval; and drafting the
27 Motion for Attorneys' Fees and Costs.

28 ///

1 24. Class Counsel took this case on a contingent basis and has put a
2 substantial amount of time and energy into litigating this case, all while receiving
3 no payment. The risk was significant given that, if the case were unsuccessful,
4 Class Counsel would not have received any compensation for the time our firm
5 spent litigating this case.

6 25. Because most individuals cannot afford to pay for representation in
7 litigation on an hourly basis, Class Counsel represents the majority of its
8 employment law clients on a contingency-fee basis. Pursuant to this arrangement,
9 we are not compensated for our time unless we prevail at trial or successfully settle
10 our clients' cases. Because Class Counsel is taking the risk that we will not be
11 reimbursed for our time unless our client settles or wins his or her case, we cannot
12 afford to represent an individual employee on a contingency basis if, at the end of
13 our representation, all we are to receive is our regular hourly rate for services. It is
14 essential that we recover more than our regular hourly rate when we win if we are
15 to remain in practice so as to be able to continue representing other individuals in
16 civil rights employment disputes. There are only so many cases that Class Counsel
17 can take at any one time. Consequently, there were other meritorious cases
18 presented to Class Counsel that would have generated substantial fees, but were
19 declined, during the pendency of this action in order to devote the attention
20 necessary to achieve favorable results.

21 26. Class Counsel's efforts have resulted in substantial benefits to the
22 Class in the form of a substantial settlement fund established to compensate Class
23 Members for missed meal and rest periods, unpaid wages, and other wage and hour
24 violations. I am informed and believe that, without Class Counsel's efforts, the
25 Labor Code and Wage Order violations alleged in the Second Amended Complaint
26 would have gone without remedy.

27 ///

28 ///

1 **Plaintiff’s Counsel’s Experience and Qualifications**

2 27. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News
3 & World Report as one of the nation’s Best Law Firms in 2021 and is comprised of
4 over 20 attorneys and over 200 employees. Wilshire Law Firm is actively and
5 continuously practicing in employment litigation, representing employees in both
6 individual and class actions in both state and federal courts throughout California.

7 28. Wilshire Law Firm is qualified to handle this litigation because its
8 attorneys are experienced in litigating Labor Code violations in both individual,
9 class action, and representative action cases. Wilshire Law Firm has handled, and
10 is currently handling, numerous wage and hour class action lawsuits, as well as
11 class actions involving consumer rights and data privacy litigation.

12 29. I graduated from the University of California, Los Angeles’s College
13 Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese,
14 *magna cum laude* and Phi Beta Kappa. As an undergraduate, I also received a
15 scholarship to study abroad for one year at Tokyo University in Tokyo, Japan. I
16 received my Juris Doctor from Notre Dame Law School in 2008.

17 30. My practice is focused on advocating for the rights of consumers and
18 employees in class action litigation and appellate litigation. I am currently the
19 primary attorney in charge of litigating several class action cases in state and
20 federal courts across the United States.

21 31. I have received numerous awards for my legal work. From 2017 to
22 2020, Super Lawyers selected me as a “Southern California Rising Star.” In 2016
23 and 2017, the National Trial Lawyers selected me as a “Top 40 Under 40” attorney.
24 I am also rated 10.0 (“Superb”) by Avvo.com.

25 32. I am on the California Employment Lawyers Association (CELA)’s
26 Wage and Hour Committee and Mentor Committee, and I was selected to speak at
27 CELA’s 2019 Advanced Wage & Hour Seminar on the topic of manageability of
28 class actions. Since 2013, I have actively mentored young attorneys through

1 CELA’s mentorship program.

2 33. I am also an active member of the Consumer Attorneys of California
3 (CAOC). In 2020, I was selected for a position on CAOC’s Board of Directors. I
4 am also a member of CAOC’s Diversity Committee, and I help assist the CAOC in
5 defeating bills that harm employees. Indeed, I recently helped assist Jacqueline
6 Serna, Esq., Legislative Counsel for CAOC, in defeating AB 443, which proposed
7 legislation that sought to limit the enforceability of California Labor Code § 226.

8 34. As the attorney responsible for day-to-day management of this matter
9 at Wilshire Law Firm, I have over ten years of experience with litigating wage and
10 hour class actions. Over the last ten years, I have managed and assisted with the
11 litigation and settlement of several wage and hour class actions. In those class
12 actions, I performed similar tasks as those performed in the course of prosecuting
13 this action. My litigation experience includes:

- 14 (a) I served as lead or co-lead in negotiating class action settlements
15 worth over \$10 million in gross recovery to class members in
16 2020.
- 17 (b) To my knowledge, I am the only attorney to appear on each of
18 the following *Top Verdict* lists for 2018 in California: Top 20
19 Civil Rights Violation Verdicts, Top 20 Labor & Employment
20 Settlements, and Top 50 Class Action Settlements.
- 21 (c) As lead counsel, I prevailed against Bank of America by:
22 winning class certification on behalf of thousands of employees
23 for California Labor Code violations; defeating appellate review
24 of the court’s order certifying the class; defeating summary
25 judgment; and defeating a motion to dismiss. *Frausto v. Bank of*
26 *America, N.A.*, 334 F.R.D. 192, 2020 WL 1290302 (9th Cir.
27 Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019),
28 2018 WL 3659251 (N.D. Cal. Aug. 2, 2018). The decision

1 certifying the class in *Frausto* is also discussed in *Class*
 2 *Certification Under Fed. R. Civ. P. 23 in Action by Information*
 3 *Technology or Call Center Employees for Violation of State Law*
 4 *Wage and Hour Rules*, 35 A.L.R. Fed. 3d Art. 8.

5 (d) I was the primary author of the class certification and expert
 6 briefs in *ABM Industries Overtime Cases*, 19 Cal.App.5th 277
 7 (2017), a wage and hour class action for over 40,000 class
 8 members for off-the-clock, meal period, split shift, and
 9 reimbursement claims. *ABM Industries Overtime Cases* is the
 10 first published California appellate authority to hold that an
 11 employer’s “auto-deduct policy for meal breaks in light of the
 12 recordkeeping requirements for California employers is also an
 13 issue amenable to classwide resolution.” *Id.* at 310.¹ Notably,
 14 the Court of Appeal also held that expert analysis of
 15 timekeeping records can also support the predominance
 16 requirement for class certification. *Id.* at 310-311.

17 (e) I briefed, argued, and won *Yocupicio v. PAE Group, LLC, et al.*,
 18 795 F.3d 1057 (9th Cir. 2015). The Ninth Circuit ruled in my
 19 client’s favor and held that non-class claims under California’s
 20 Private Attorney Generals Act (“PAGA”) cannot be used to
 21 calculate the amount in controversy under the Class Action
 22 Fairness Act (“CAFA”). This case is cited in several leading
 23 treatises such as Wright & Miller’s *Federal Practice &*
 24 *Procedure*, and *Newberg on Class Actions*. In October 2016, the
 25 U.S. Supreme Court denied review of a case that primarily

26
 27 ¹ As a California district court observed before the *ABM Industries Overtime*
 28 decision, “[t]he case law regarding certification of auto-deduct classes is mixed.”
Wilson v. TE Connectivity Networks, Inc., No. 14-CV-04872-EDL, 2017 WL
 1758048, *7 (N.D. Cal. Feb. 9, 2017).

1 concerned *Yocupicio*. That effort was led by Theodore J.
2 Boutrous, who brought the cert petition, with amicus support
3 from a brief authored by Andrew J. Pincus.² Considering that
4 leading Supreme Court practitioners from the class action
5 defense bar were very motivated in undermining *Yocupicio* case,
6 but failed, this demonstrates the national importance of the
7 *Yocupicio* decision.

8 (f) On December 13, 2018, the United States District Court granted
9 final approval of the \$2,500,000 class action settlement in *Mark*
10 *Brulee, et al. v. DAL Global Services, LLC*, No. CV 17-6433
11 JVS(JCGx), 2018 WL 6616659 (C.D. Cal. Dec. 13, 2018) in
12 which I served as lead counsel. In doing so, the Court found:
13 “Class Counsel’s declarations show that the attorneys are
14 experienced and successful litigators.” *Id.* at p. *10.

15 (g) *Gasio v. Target Corp.*, 2014 U.S. Dist. LEXIS 129852 (C.D.
16 Cal. Sep. 12, 2014), a reported decision permitting class-wide
17 discovery even though the employer has a lawful policy because
18 “[t]he fact that a company has a policy of not violating the law
19 does not mean that the employees follow it, which is the issue
20 here.” The court also ordered defendant to pay for the cost of
21 *Belaire-West* notice.

22 (h) In 2013, I represented a whistleblower that reported that his
23 former employer was defrauding the State of California with the
24 help of bribes to public employees. The case, a false claims (*qui*
25 *tam*) action, resulted in the arrest and criminal prosecution of
26 State of California employees by the California Attorney
27

28 ² <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>

1 General's Office.

2 (i) In 2013, I was part of a team of attorneys that obtained
3 conditional certification for over 2,000,000 class members in a
4 federal labor law case for misclassification of independent
5 contractors that did crowdsourced work on the Internet, *Otey v.*
6 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST
7 (MEJ), resulting in the following pro-plaintiff reported
8 decisions:

- 9 1) 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013)
10 (holding that an unaccepted Rule 68 offer doesn't moot
11 plaintiff's claims, and granting plaintiff's motion to strike
12 defendant's affirmative defenses based on
13 *Twombly/Iqbal*).
- 14 2) 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013)
15 (order granting conditional collective certification).
- 16 3) 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013)
17 (affirming the magistrate judge's discovery ruling which
18 held that "evidence of other sources of income is
19 irrelevant to the question of whether a plaintiff is an
20 employee within the meaning of the FLSA").
- 21 4) 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013)
22 (granting broad discovery because "an FLSA plaintiff is
23 entitled to discovery from locations where he never
24 worked if he can provide some evidence to indicate
25 company-wide violations").

26 (j) From 2012 to 2013, I was part of a team of attorneys that
27 obtained class certification for over 60,000 class members for
28 off-the-clock claims, *Linares v. Securitas Security Services USA,*

1 *Inc.*, Los Angeles Superior Court No. BC416555. We also
2 successfully opposed subsequent appeals to the California Court
3 of Appeal and California Supreme Court.

4 35. Robert J. Dart is a Senior Attorney at Wilshire Law Firm. Robert's
5 current hourly rate is \$700. He graduated from Duke University, cum laude, and
6 from the University of Chicago Law School. Spanning over 15 years, his legal
7 background includes a judicial clerkship for the Honorable Aleta A. Trauger of the
8 United States District Court for the Middle District of Tennessee, as well as
9 significant work experiences at Quinn, Emanuel, Urquhart & Sullivan LLP and
10 Jenner & Block LLP. Robert has significant experience in consumer and
11 employment class actions, as a part of a team, from 2016 to 2019, who successfully
12 settled innumerable consumer banking class actions, and as a part of Wilshire Law
13 Firm, where he has written successful briefs at both the trial and appellate level in
14 consumer and employment class actions. Robert is admitted to practice in the State
15 of California and State of Illinois. In *Sondra Ramirez v. Baxter Credit Union*, No.
16 3:16-cv-03765, the court recognized Robert's hourly rate of \$600 as reasonable,
17 because the hourly rates were in line with prevailing market rates and considering
18 the contingent risk and complexity of the action. *Sondra Ramirez v. Baxter Credit*
19 *Union*, No. 3:16-cv-03765 (N.D. Cal., December 19, 2017), ECF 79, at *3. He has
20 since then accumulated much more experience and successes in representing his
21 clients and is charging a higher hourly rate.

22 36. Benjamin H. Haber is a fifth-year Associate Attorney at Wilshire Law
23 Firm. His current hourly rate is \$500. He graduated from the University of
24 California, Los Angeles, with a Bachelor of Arts in Political Science, and received
25 his Juris Doctor from the University of California, Hastings College of the Law in
26 2016. During law school, he was a member of the executive board for the Hastings
27 Law Journal, managing editor for the SCOCAblog, and student mediator at the San
28 Francisco Superior Court, Small Claims Division. He was admitted to practice law

1 in the State of California in 2017. Since graduating from law school, he has
2 focused his legal work primarily on wage-and-hour litigation and has helped obtain
3 dozens of seven-figure settlements on behalf of tens of thousands of workers in
4 California.

5 37. Rachel J. Vinson is a second-year Associate Attorney at Wilshire Law
6 Firm. She is admitted to practice law in the State of California and the Central and
7 Southern Districts of California in 2020. Her current hourly rate is \$300. Rachel
8 graduated from Claremont McKenna College with a Bachelor's in Arts in
9 Philosophy and Government. She received her Juris Doctor from Washington
10 University in St. Louis where she earned a Scholar in Law Award, was Executive
11 Editor of the Washington University Journal of Law and Policy, was a Finalist in the
12 Client Interviewing and Counseling Competition, and successfully second-chaired a
13 felony trial as a Rule 13 Attorney for the Missouri State Public Defender Office. She
14 is also a member of CAALA and CELA.

15 38. Ronghua Guan is an Associate Attorney at Wilshire Law Firm. She is
16 admitted to practice in the States of California, Missouri, and Texas and in the
17 United States District Courts for the Eastern District of Missouri and the Central
18 District of California. Ronghua's current hourly rate is \$400. She received her Juris
19 Doctor from Washington University in St. Louis in 2018 where she earned a Dean's
20 Fellowship Award, was on the Dean's List, and received the honor of Order of
21 Barrister upon graduation. She was the Executive Articles Editor of the Washington
22 University Global Studies Law Review and competed in the Vis International
23 Arbitration Moot. Before joining Wilshire Law Firm, she practiced in a top tier
24 insurance defense law firm in St. Louis, Missouri for two and a half years. She
25 successfully obtained motions to dismiss and motions for summary judgment in
26 employment discrimination and retaliation, legal malpractice, and business litigation
27 cases on behalf of her clients while practicing in Missouri. She also successfully
28 opposed many pretrial motions. She has almost three years of experience in

1 employment cases including wage-and-hour class action cases.

2 39. Min Jee Kim is a paralegal at Wilshire Law Firm with eight years of
3 experience working at law firms, including over three years of experience working
4 on class action cases. She is a graduate of the University of California, San Diego
5 with a Bachelor's of Arts degree in Economics.

6 40. My current contingent billing rate of \$750 per hour is consistent with
7 my practice area, lead appellate experience in the Ninth Circuit Court of Appeals,
8 numerous awards received, legal market and accepted hourly rates:

9 (a) In the December 8, 2008 article "Billable Hours Aren't the Only
10 Game in Town Anymore," NATIONAL LAW JOURNAL, the
11 following hourly billing rates were reported by Sheppard,
12 Mullin, Richter & Hampton, a leading firm in the defense of
13 wage-and-hour class actions that I opposed when litigating
14 wage-and-hour class actions: Partners: \$475-\$795; Associates:
15 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year -
16 \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th
17 Year - \$455. I am a 10th year attorney and Senior Partner, with
18 most of my experience in class action litigation as a primary
19 practice area. Having successfully briefed and argued a
20 published appeal in the Ninth Circuit Court of Appeals involving
21 CAFA and PAGA, having experience certifying large class
22 actions (including *ABM Industries Overtime Cases*, which was
23 decided on appeal), and having received numerous awards for
24 my legal work, my hourly rate should be adjusted upward.

25 (b) In the wage and hour class action *Savaglio, et al, v. WalMart*,
26 Alameda County Superior Court No. C-835687-7, Order
27 Granting Class Counsel's Motion for Attorneys' Fees, filed
28 September 10, 2010, the Court approved hourly rates from \$435

per hour for four years of experience to \$875 per hour for 51 years of experience.

(c) On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior Court approved my \$750 hourly rate when he granted final approval of the class action settlement in *Faye Zhang v. Richemont North America, Inc.*, No. 19STCV32396.

(d) On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC*, No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (C.D. Cal. Dec. 13, 2018) in which I served as lead counsel. In doing so, the Court approved my then \$600 hourly rate and found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” *Id.* at *10.

(e) On September 17, 2018, the Los Angeles Superior Court approved my \$600 hourly rate when it granted final approval of the class action settlement in *Rosillo v. Fashion Nova, Inc.*, No. BC659644.

Wilshire Law Firm’s Lodestar and Costs

41. The total current lodestar for Wilshire Law Firm is not less than the following:

Person	Role	Hours	Rate	Lodestar
Justin F. Marquez	Senior Partner (10+ years)	147.4	\$750	\$104,775
Robert J. Dart	Senior Attorney (10+ years)	32.0	\$700	\$22,400
Benjamin H. Haber	Associate Attorney (5 th year)	76.6	\$500	\$38,300
Ronghua Guan	Associate Attorney (3 rd year)	23.4	\$400	\$9,360

1	Rachel J. Vinson	Associate Attorney (2 nd year)	5.8	\$300	\$1,740
2	Min Jee Kim	Paralegal	21.0	\$150	\$3,150
3		Total:	306.2		\$185,500

4
5 42. All the hours claimed by Plaintiff's counsel were reasonably necessary
6 to litigate this matter. Attached as **Exhibit A** to this declaration is a copy of
7 Wilshire Law Firm's timesheets in this matter, which accurately state the hours
8 contemporaneously recorded by the attorneys at Wilshire Law Firm.

9 43. Attached as **Exhibit B** to this declaration are Wilshire Law Firm's
10 timesheets in this matter organized by ABA billing code category. A description of
11 each billing code, downloaded from the ABA's website on June 1, 2021, is attached
12 as **Exhibit C**. For the Court's reference, below is a chart with totals associated for
13 each ABA billing code:

14	ABA Task Code	Total Hours	Percentage of Time
15	L100	0.9	0.29%
16	L110	4.5	1.47%
17	L120	12.8	4.18%
18	L160	73.0	23.84%
19	L190	16.9	5.52%
20	L200	25.8	8.43%
21	L210	145.0	47.35%
22	L300	10.3	3.36%
23	L310	12.1	3.95%
24	L390	4.9	1.60%
25	Total:	306.2	100.00%

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27 ///

28 ///

1 As the timesheets and the above table demonstrate, most of the attorney time spent
2 on motion work related to the case (task code L210), such as Defendant's Motion
3 to Dismiss, Plaintiff's Motion to Remand, the Parties' Motions to Strike, Plaintiff's
4 Motion for Preliminary Approval of Class Action Settlement, and Plaintiff's
5 Motion for Attorneys' Fees and Costs. The second most time-consuming task was
6 related to preparing for mediation (task code L160). Tasks related to discovery,
7 such as propounding discovery, reviewing discovery responses and documents
8 (task codes L300, L310, and L390) only took up 8.92% of the attorney's time.
9 Plaintiff's counsel also used the task code L200 to cover e-mail correspondences,
10 which only took up 8.43% of the attorney's time. Altogether, an analysis of
11 Plaintiff's counsel's time records also demonstrates that there was significant
12 litigation in this matter. Yet, Plaintiff's counsel litigated this action quickly and
13 efficiently.

14 44. There are additional hours devoted by me (and by my colleagues) to
15 this litigation that are not captured in Wilshire Law Firm's timesheets, but
16 Plaintiff's counsel does not seek to recover such hours in their Motion. These
17 figures do not include any time spent after filing the Motion for Attorneys' Fees
18 and Costs, such as any follow up work related to administering the settlement.

19 45. I estimate that Wilshire Law Firm will spend another 20-30 hours on
20 this case at an average hourly rate of \$600.00, performing tasks such as preparing
21 for and appearing at the Final Fairness Hearing, overseeing the settlement
22 administration process, and responding to inquiries from Class Members. Based on
23 my experience, after the notice is mailed, numerous Class Members will call my
24 office to inquire about the status of the case and to ask for further information. We
25 also bear the risk of taking whatever actions are necessary if Defendant fails to pay.
26 In one of my recent cases, my firm spent over 50 hours, post-final approval, in
27 collection efforts on behalf of the class.

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