

1 Cristina Molteni (Bar No. 244715)
cmolteni@moltenilaw.com
2 **MOLTENI EMPLOYMENT LAW**
100 Pine Street, Suite 1250
3 San Francisco, California 94111
Telephone: (415) 762-0270
4 Facsimile: (415) 762-0271

5 *Attorneys for Plaintiffs and the Proposed Class*

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

10 FELIX AGUILAR, JOSE MARTINEZ, and
11 JOSE CAZARES, individually, and on behalf of
all others similarly situated,

12 Plaintiffs,

13 v.

14 ALL SEASONS ROOFING &
15 WATERPROOFING, INC., VLADISLAV N.
GORSHTEYN, and DOES 1 through 50,
inclusive,

16 Defendants.

Case No. 20CV364524

ASSIGNED FOR ALL PURPOSES TO
Hon. Sunil R. Kulkarni
Department 1

CLASS ACTION

**DECLARATION OF CRISTINA MOLTENI
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
ORDERS:**

- 17 (1) **PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT AND
PROVISIONALLY CERTIFYING THE
PROPOSED SETTLEMENT CLASS;**
- 18 (2) **DIRECTING CLASSWIDE
DISTRIBUTION OF SETTLEMENT
NOTICE; AND**
- 19 (3) **SETTING A HEARING DATE FOR
FINAL APPROVAL**

20 **Date: December 2, 2021**
21 **Time: 1:30 p.m.**

1 I, Cristina Molteni, declare as follows:

2 1. I am a member of the Bar of the State of California and am admitted to practice
3 before this Court. I am the principal in the law firm of Molteni Employment Law (“MEL”),
4 counsel of record for Plaintiffs and the proposed Class in this action. I submit this declaration in
5 support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. I have personal
6 knowledge of the facts set forth in this declaration and, if called upon to do so, could and would
7 testify competently thereto, except where I make a statement on information and belief, in which
8 case I am informed and believe the statement to be true.

9 2. Attached hereto as **Exhibit 1** is a true and correct copy of the Joint Stipulation of
10 Class Settlement. The Settlement Agreement has been reviewed and signed by the parties. **Exhibit 1**
11 (redacted class list) is attached to the Joint Stipulation of Settlement.

12 3. On March 2, 2020, Plaintiffs Felix Aguilar, Jose Martinez, and Jose Cazares
13 (“Plaintiffs”) filed this class action in Santa Clara Superior Court on behalf of themselves and
14 others who worked in California for All Seasons Roofing & Waterproofing, Inc. and Vladislav N.
15 Gorshteyn at any time from March 2, 2016. On May 11, 2020, Plaintiffs filed a First Amended
16 Complaint (“FAC”), adding a single cause of action for penalties under Private Attorneys General
17 Act (“PAGA”). Attached hereto as **Exhibit 2** is a true and correct copy of Plaintiffs’ First Amended
18 Class Action Complaint.

19 4. Throughout this litigation, Defendants All Seasons Roofing & Waterproofing, Inc.
20 and Vladislav N. Gorstheyn (“Defendants”) have denied Plaintiffs’ claims and have maintained that,
21 in the absence of a settlement, certification of a class of employees who worked in California is
22 inappropriate. In addition, Defendants have explicitly denied any liability or wrongdoing and
23 indicated that they have complied with all applicable state, federal, and local laws affecting Plaintiffs
24 and Class Members regarding hours worked, unpaid wages, unpaid overtime, unpaid minimum
25 wages, meal and rest periods, record-keeping, wage statements, and other claims alleged in the
26 Action.

27 5. During the course of this litigation, the parties stipulated to an Informal Discovery
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1 Agreement and Defendants produced (1) the class list, identifying class members, their dates of
2 employment and their rates of pay; (2) the personnel file for the named plaintiffs; (3) the list of
3 projects during the covered period, including job site addresses, project dates and superintendent
4 names for each project; (4) time cards and time sheets under the different time record keeping
5 systems kept by All Seasons during the covered period; (5) wage statements during the covered
6 period; (6) certified payroll records during the covered period; and (7) written policies.

7 6. I received and reviewed more than eighteen thousand pages of documents produced
8 by Defendants, interviewed dozens of All Seasons's roofers regarding the allegations in the case, and
9 engaged in public records' research regarding the payment of prevailing wages on public works
10 projects. Interviews with current workers revealed that after the inception of this action, All Seasons
11 updated their written policies and implemented them, in accordance with current law.

12 7. After conducting informal discovery production and review and interviews with Class
13 Members, the parties and their counsel participated in a full-day mediation session with experienced
14 employment mediator Jeffrey A. Ross, Esq. on February 4, 2021 that extended until late in the
15 evening. Attached hereto as **Exhibit 3** is a true and correct copy of Mr. Ross's biography. At the
16 mediation session, the parties had a vigorous, arm's length discussion, and the parties reached an
17 agreement in principle. The parties executed a memorandum of understanding that week. Over the
18 next months, the Parties unveiled additional Class Members who were initially not accounted for
19 mediation purposes and negotiated and finalized the detailed terms of the Settlement Agreement.

20 8. Attached hereto as **Exhibit 4** is a true and correct copy of the proposed Class
21 Notice and Information Form, which the parties propose be distributed to the Class Members by
22 U.S. Mail, if the Court grants preliminary approval to the proposed Settlement. The Notice, after
23 Court approval, will be translated into Spanish as part of the notice process.

24 9. While working on this matter, I performed the following activities: met and
25 interviewed the potential clients, drafted the complaint and the PAGA letter; drafted the First
26 Amended Complaint, met and conferred with Defendants' counsel regarding early mediation,
27 mediators names, informal discovery agreement, conferred with plaintiffs regarding the strategy in
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1 the case and developments, reviewed case management conference statement; interviewed members
2 of the proposed class; reviewed more than 18,000 documents produced by defendants; researched
3 public records regarding Defendants' public works, prepared exhibits regarding travel time and off-
4 the-clock work, researched and drafted the mediation brief in this action; prepared damages
5 calculations and identified exhibits in support of the mediation brief; reviewed defendants'
6 mediation brief; prepared for the mediation session; participated in the mediation session;
7 participated in further negotiations with Defendants' counsel regarding the stipulation of settlement;
8 reviewed newer information regarding additional class members and workweeks that were
9 unaccounted for; prepared additional damages calculations to include the new class members;
10 researched and drafted the motion for preliminary approval; requested bids for administration of the
11 settlement and communicated with settlement administrators; and other miscellaneous activities.

12 10. The following is a brief description of my professional background. I have more than
13 thirty years of experience in the labor and employment fields; twenty-five of those years are as an
14 attorney. I graduated from Facultad de Derecho y Ciencias Sociales, Universidad de Buenos Aires,
15 Argentina in May 1992, with a certification in Labor & Employment Law. I received my LL.M. in
16 Labor and Employment Law from Universidade de São Paulo, Brazil in November 1998. Prior to
17 coming to California, I was a law clerk in the National Labor Court of Appeals in Buenos Aires,
18 Argentina and an assistant professor of Labor and Employment Law I and II (with tenure), teaching
19 to fourth and fifth year law students, in Faculdade de Direito, Universidade Cândido Mendes, Rio de
20 Janeiro, Brazil, the oldest private university in Latin America. I obtained my license to practice law
21 in Argentina in 1996, in Brazil in 1998, and in California in 2006.

22 11. From April 2008 until December 2011, I was an associate at the Law Offices of Ellyn
23 Moscowitz, P.C. (currently closed), in Oakland, California, where I worked on more than 30 wage-
24 and-hour class action cases, primarily representing Spanish-speaking workers in the building trades.
25 From January 2012 until July 2013, I was an associate at Rukin Hyland Doria & Tindall LLP
26 (currently Rukin Hyland & Rigglin, LLP), in San Francisco, California, practicing employment law
27 and focused in class action litigation. From July 2013 to November 2015, I was a partner in the
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1 employment practice at Albert G. Stoll, Jr., A Law Corporation, in San Francisco, California, mostly
2 representing Spanish-speaking workers in wage-and-hour class action litigation. From November
3 2015 to the present, I have been the principal at MEL, representing clients exclusively in
4 employment law matters, including litigating individual and class action wage-and-hour claims, and
5 providing advice in workplace issues. I was a contributing author on the class action yearly issues in
6 Plaintiff Magazine (Northern California) and I have been named a Northern California “Super
7 Lawyer” by SuperLawyer magazine (2016 Rising Star, 2021 Super Lawyer).

8 12. I have served as lead class counsel, co-lead class counsel, and other levels of
9 involvement in various class action employment cases in federal and state courts. The following is a
10 sampling of class actions in which I have been appointed as class counsel:

- 11 a. *Miranda et al. v. Davey Roofing, Inc. et al.*, Alameda Superior Court, Case No. 06282104;
12 b. *Rodriguez et al. v. CRC Roofing*, Sacramento Superior Court, Case No. 34-2008-00014843;
13 c. *Masters v. Vellutini Corporation dba Royal Electric*, Sacramento Superior Court, Case No. 34-
14 2008-00011148;
15 d. *Diaz et al. v. Cool Roofing Systems dba TSP Roof Systems*, Alameda Superior Court, Case No.
16 RG11555440;
17 e. *May v. Central Towing & Transport, LLC*, Alameda Superior Court, Case No. RG11578842;
18 f. *Vizcaino et al. v. Tecta America Sacramento, Inc. et al.*, Contra Costa Superior Court, Case No.
19 C11-00871;
20 g. *Millan et al. v. Gudgel Roofing, Inc. dba Yancey Roofing*, Contra Costa Superior Court, Case No.
21 C12-01818;
22 h. *Romero et al. v. Legacy Roofing & Waterproofing, Inc. et al.*, Alameda Superior Court, Case No.
23 RG12634384;
24 i. *Reynoso et al. v. Madsen Roofing & Waterproofing, Inc.*, Sacramento Superior Court, Case No.
25 34-2013-00156515;
26 j. *Leon et al. v. D7 Roofing Services, Inc. et al.*, Alameda Superior Court, Case No. RG14749708;

1 k. *Tovar v. NIR West Coast, Inc. dba Northern California Roofing Co. et al.*, Contra Costa Superior
2 Court, Case No. C17-01600;

3 l. *Neill et al. v. Vernon Construction & Roofing, Inc. et al.*, Stanislaus Superior Court, Case No.
4 2130258; and

5 m. *Lopez v. Swanson Landscaping, Inc. et al.*, Alameda Superior Court, Case No. RG20062042;

6 13. In reaching the Settlement, I assessed all of the risks of continued pursuit of this
7 litigation and a number of related factors, including the risk of keeping the class certified until trial
8 and the risk of failing to demonstrate one or more claims at trial.

9 14. Based on my calculation of the potential damages at issue in this case and my
10 assessment of the risks that Plaintiffs and the Class might not prevail on one or more of their claims,
11 I believe the parties have reached a fair, reasonable, and adequate settlement with an outstanding
12 result for Class Members, and I fully support it. Accordingly, I strongly recommend that the Court
13 grant preliminary approval to the settlement at issue in this motion.

14 15. Class Counsel have dedicated substantial time and out-of-pocket costs to the litigation
15 of this case even though this case has been efficiently staffed. Pursuant to the Settlement and subject
16 to Court's approval, Plaintiffs will move for a fee award of 33% of the gross settlement amount
17 (\$328,350), and up to \$20,000 for costs at the final approval hearing.

18 16. After reaching the settlement in this action, and after receiving bids from four
19 settlement administrators, the parties agreed to propose Phoenix Class Action Administration
20 Solutions ("Phoenix") as the Settlement Administrator. The duties of the Settlement Administrator
21 include the following: (1) establishing a database for each Class Member's name, last known
22 address, and dates of employment; (2) performing a national change of address search, update the
23 addresses per the results of the NCOA search, and then mail the Notice of Settlement and
24 Information Form ("Notice Packet"), respectively, to each Class Member by first-class mail,
25 postage prepaid; (3) establishing a toll-free bilingual informational telephone support line to assist
26 Class Members with questions they may have; (4) establish a website which shall make available
27 all documents submitted to the Court in connection with the proposed settlement; (5) calculating
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1 estimated settlement payments out of the Net Settlement Fund; (6) printing and mailing the Class
2 Notice and Information Form to each Class Member in Spanish and English; (7) reviewing any
3 objections and requests to opt out; (8) issuing Settlement payments; (9) calculating and remitting to
4 the IRS all required payroll taxes; and (10) calculating and issuing to Class Members Form W-2s,
5 Form 1099s, and any other required state and federal tax forms. Experienced settlement
6 administrator Phoenix has indicated that it can perform all of these tasks for an amount not to
7 exceed \$12,000. Given the size of the settlement class, I believe Phoenix's cost proposal to be
8 reasonable. Attached hereto as **Exhibit 5** is a true and correct copy of Phoenix's corporate resume
9 and partial client list, both of which I received from Phoenix.

10 17. Throughout the course of this litigation, Plaintiffs Felix Aguilar, Jose Martinez, and
11 Jose Cazares have shown their ability and willingness to prosecute this action vigorously on behalf
12 of all individuals that have worked for Defendants. I am informed and I believe that Plaintiffs
13 Aguilar, Martinez, and Cazares have expended significant time and effort to assert the rights of the
14 Class Members—preparing for litigation, giving all the information and documents about their
15 work experience at All Seasons, staying informed of developments in the case through
16 communications by phone, and assisting counsel locating Class Members. Moreover, Plaintiffs
17 Aguilar, Martinez, and Cazares each provided information for the mediation session by phone, and
18 were available throughout the mediation process. In addition, in order to reach this Settlement
19 Agreement, Plaintiffs were requested to agree waiving all their claims against the Defendants.
20 Defendants would not have agreed to this Settlement if Plaintiffs did not provide such release.
21 Plaintiffs have acted as competent class representatives since the beginning of this action and have
22 raised no claims inconsistent with the interests of the class. Moreover, I am informed that after
23 Plaintiff Cazares executed a memorandum of understanding in this case, he was terminated by a
24 roofing company that I have sued in the past for wage and hour violations on a class wide basis.
25 That case was heavily litigated and that litigation extended for more than six years. Based on that
26 information, I strongly believe that Plaintiff Cazares was retaliated for his participation in this
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1 lawsuit by that roofing company. I further believe that the Class Representatives' efforts before and
2 during the litigation were decisive in prosecuting and resolving this case.

3 18. In connection with this case, I reviewed thousands of documents, including
4 Plaintiffs' and Class Members' earning records, time records, and interviewed dozens of Class
5 Members. I estimate that there are approximately 32,038 workweeks at issue (based on the Class
6 Members' dates of employment from March 2016 until February 2021. Based on Plaintiffs'
7 Counsel investigation and interviews with Class Members, I believe Class Members worked
8 conservatively three hours doing roofing work per workweek, seven hours travelling to and from
9 projects and doing yard work per workweek, for a total of 10 hours per workweek, for a total of
10 96,114 hours of unpaid roof time and 224,266 hours of unpaid travel time. At average rates of \$26
11 for roofing work and \$16 for travel and yard work respectively, I estimate All Seasons's total
12 liability on this claim to be approximately \$2,498,964 for roof work and \$3,588,256 for travel time.

13 19. In connection with this case, I reviewed list of projects and I estimated that 15% of
14 the workweeks are devoted to public work projects, which causes the payment of prevailing wages.
15 I estimated that there are approximately 4,806 workweeks at issue and after reviewing hundreds of
16 certified payroll records and public records in the Department of Industrial Relations related to the
17 work performed by All Seasons, I calculated the possible liability of an underpayment of 50 cents
18 for each hour worked on public works, for a total of \$20 per 40-hour weeks. I estimate the total
19 liability for underpayment of prevailing wages at \$96,120 when multiplying the 4,806 workweeks
20 by \$20.

21 20. In connection with this case, I also calculated the possible liability for Plaintiffs'
22 overtime. Based on conversations with Class Members, I estimate that Class Member worked one
23 hour of overtime each workweek. At an average of \$39 for overtime rate (i.e. 1.5 x \$26 regular
24 rate), the estimated exposure for overtime violations is \$1,249,482 (\$39 multiplied by 32,038
25 workweeks.)

26 21. In connection with this case, I also calculated the possible liability for Plaintiffs'
27 meal and rest period claims by multiplying the average hourly wage of \$26 by the average number
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1 of days that proposed Class Members received late meal periods and were not provided with rest
2 breaks. Interviews with Class Members indicated that, on average, Class Members usually received
3 their meal breaks after the end of the fifth hour of work, approximately five times per week. In
4 addition, Class Members were not provided with at least one discrete ten-minute rest period
5 approximately 5 days per week during the Class Period. The penalties owed for meal and rest
6 breaks are calculated as an hour of pay for each work day that a meal period is not provided, and an
7 hour of pay for each work day that a rest break period is not provided, for a maximum of 2 hours
8 per day. At an average of hourly wage of \$26, I estimate Defendants' total liability on the meal
9 period claim to be approximately \$130 (5 late meal breaks per workweek) x 32,038 workweeks =
10 \$4,164,940. In addition, I estimate Defendants' total liability on the rest break claim to be
11 approximately \$130 (5 rest breaks per workweek) x 32,038 workweeks = \$4,164,940.

12 22. In preparation for negotiations in connection with this case, I also calculated the
13 number of initial and subsequent pay periods for which Plaintiffs assert that Defendants failed to
14 provide accurate itemized wage statements. The penalties owed for violations of itemized wage
15 statements are calculated as follows: \$50 for the initial pay period in which the violation occurred,
16 and then \$100 per employee per pay period, up to a maximum of \$4,000. Because pay stubs were
17 issued weekly by Defendants, the \$4,000 limit is quickly reached (that is, any employee who worked
18 more than 41 weeks for Defendants would reach the maximum penalty of \$4,000). Plaintiffs'
19 Counsel's analysis of the evidence provided by Defendant indicates that, approximately 333 Class
20 Members were employed since March 2019, and could have reached the maximum penalty, i.e. they
21 received 41 inaccurate paychecks or more, that is: 333 employees x \$4,000 = \$1,332,000. However,
22 a large percentage of these workers were allegedly temporary workers and worked for Defendants
23 for very short periods of time.

24 23. In preparation for mediation in connection with this case and based on the evidence
25 provided by Defendants, I calculated Defendants' total liability for waiting time penalties as
26 approximately 349 employees (the number of employees who are entitled to that recovery) x \$232
27 (the Class Member's average daily wage of \$26 x 8 hours + \$16 of non-roof wage x 1.5 hours) x
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1 the number of days for which this penalty can be imposed (maximum of 30 days, or \$6,960) for a
2 total estimated liability of \$2,429,040.

3 24. Using the calculations identified above in this Declaration, Plaintiffs' Counsel's
4 estimate of Defendants' total liability for unpaid off-the-clock, prevailing wage, overtime, late meal
5 period and rest period violations, wage statement violations, and waiting time penalties can be
6 calculated as \$6,087,220 (unpaid regular hours) + \$96,120 (unpaid prevailing wage) + \$1,249,482
7 (unpaid overtime) + \$4,164,940 (late and missed meal periods) + \$4,164,940 (missed rest periods)
8 + \$1,332,000 (wage statements violations) + \$2,429,040 (waiting time penalties) = \$18,399,202.

9 25. The largest component of this calculation is the unpaid off-the-clock claims, on
10 which Plaintiffs and the proposed Class face risks. Although Plaintiffs' Counsel believe Plaintiffs
11 have the better of that argument, I acknowledge that these risks exist.

12 26. In addition, Plaintiffs' Counsel are cognizant of the fact that the waiting time
13 penalties sought in this case are not guaranteed even if Plaintiffs proved Defendants failed to pay all
14 wages due. Waiting time penalties may only be awarded when there is a no "good faith" dispute
15 that wages are owed at the time of termination. *See* Title 8, Cal. Code Regs. § 13520. Plaintiffs'
16 Counsel recognizes that even if Plaintiffs succeeded in their claims that Defendant failed to pay all
17 wages due, it would not necessarily follow that there was no good faith dispute that these wages
18 were owed. Plaintiffs' Counsel took into account the risks in proving this claim when assessing its
19 value for settlement purposes.

20 27. Further, the itemized wage statement penalty cause of action is partially derivative of
21 other causes of action alleged in the Consolidated Complaint—that is, the allegation is that
22 Defendants did not accurately record all the hours worked by the Class Members, and consequently,
23 the wage statements were inaccurate. Therefore, when assessing liability and damages for this cause
24 of action, Plaintiffs' Counsel discounted the value of this claim in light of the risks underlying the
25 causes of action on which it is based.

26 28. Based on Plaintiffs' Counsel's estimate of Defendant's total liability calculated as
27 described above in paragraph 24, the Total Settlement Amount of \$995,000 represents a recovery
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1 of more than 5% of the potential value of the Class Members' claims (\$995,000/\$18,399,202 and
2 more than 16% of the regular wages Plaintiffs allege Class Members are owed
3 (\$995,000/\$6,087,220).

4 29. In connection with this case and based on the evidence provided by Defendants,
5 i.e., 333 employees (the number of employees who are entitled to that penalty) and
6 approximately 10,333 pay periods where those violations occurred, I calculated the maximum
7 value owed under Labor Code § 2699 for PAGA penalties as \$100 for the first violation x 333
8 employees (pay periods) + (\$200 for subsequent violations x 10,000 pay periods) for a total of
9 \$2,033,300 for PAGA penalties under Labor Code § 1197 (failure to pay wages).

10 30. In connection with this case and based on the evidence provided by Defendants,
11 i.e., 333 employees (the number of employees who are entitled to that penalty) and
12 approximately 10,333 pay periods where those violations occurred, I calculated the maximum
13 value owed under Labor Code § 2699 for PAGA penalties as \$100 for the first violation x 333
14 employees (pay periods) + (\$200 for subsequent violations x 10,000 pay periods) for a total of
15 \$2,033,300 for PAGA penalties under Labor Code § 512 (failure to provide meal breaks).

16 31. In connection with this case and based on the evidence provided by Defendants,
17 i.e., 333 employees (the number of employees who are entitled to that penalty) and
18 approximately 10,333 pay periods where those violations occurred, I calculated the maximum
19 value owed under Labor Code § 2699 for PAGA penalties as \$50 for the first violation x 333
20 employees (pay periods) + (\$100 for subsequent violations x 10,000 pay periods) for a total of
21 \$1,016,650 for PAGA penalties under Wage Order 16, § 12 (failure to provide rest breaks).

22 32. In connection with this case and based on the evidence provided by Defendants,
23 i.e., 333 employees (the number of employees who are entitled to that penalty) and
24 approximately 10,333 pay periods where those violations occurred, I calculated the maximum
25 value owed under Labor Code § 2699 for PAGA penalties as \$50 for the first violation x 333
26 employees (pay periods) + (\$100 for subsequent violations x 10,000 pay periods) for a total of
27 \$1,016,650 for PAGA penalties under Wage Order 16, § 7 (recordkeeping violations).

1 33. In connection with this case and based on the evidence provided by Defendant,
2 i.e., 333 employees (the number of employees who are entitled to that penalty) and
3 approximately 10,333 pay periods where those violations occurred, I calculated the maximum
4 value owed under Labor Code § 2699 for PAGA penalties as \$100 for the first violation x 333
5 employees (pay periods) + (\$200 for subsequent violations x 10,000 pay periods) for a total of
6 \$2,033,300 for PAGA penalties under Labor Code § 203 (waiting time penalties).

7 34. Using the calculations identified above in this Declaration, Plaintiff's Counsel's
8 estimate of All Seasons's PAGA liability for hour worked, meal and rest period violations,
9 waiting time penalty and itemized wage statement penalty claim can be calculated as \$2,033,300
10 (Labor Code § 1197) + \$2,033,300 (Labor Code § 512) + \$1,016,650 (Wage Order 16, § 12) +
11 \$1,016,650 (Wage Order 16, § 7) + \$2,033,300 (Labor Code § 203) = \$8,133,200.

12 35. I am cognizant that the PAGA claims are subject to the same risks as the
13 underlying Labor Code violations, specially the claims for wage statements, which are derivative
14 in nature, and waiting time violations, which are more speculative, all of them discussed on the
15 paragraphs 26-27 above.

16 36. Based on my estimate of Defendants' maximum recovery under PAGA as
17 described above in paragraph 34, it represents a recovery of approximately 2.4% of the potential
18 recovery for unpaid wages (\$49,750/\$2,033,300).

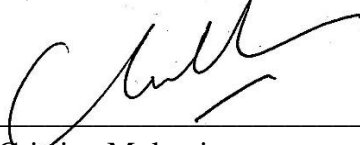
19 37. If each violation for PAGA purposes were to be considered as \$5 according to
20 case law, the PAGA penalties for all violations will be calculated as \$5 per violation x (5 claims
21 (unpaid wages, meal periods, rest breaks, waiting time penalties, and recordkeeping) x 10,333
22 pay periods = \$258,325, which represents 19% of the value of the PAGA recovery for all the
23 claims (\$49,750/\$258,325).

24 38. As indicated in **Exhibit 1** hereto, the Settlement provides that, deducted from the
25 Total Settlement Amount of \$995,000, will be sums (subject to Court approval) for each of the
26 following: (1) a service payment to the Class Representatives (not to exceed \$10,000 for each of
27 them); (2) the fees of the Settlement Administrator (not to exceed \$12,000); (3) penalties under
28 PAGA with \$37,312.50 (75%) being awarded to the State of California and \$12,437.50 (25%)

1 being awarded to named plaintiffs and PAGA aggrieved employees and included in the net
2 settlement fund; and (4) Plaintiffs' attorneys' fees and costs, not to exceed 33% of the settlement
3 fund in fees and \$20,000 in litigation costs. If all of these requested deductions are approved by
4 the Court, the net settlement amount to be distributed on a *pro rata* basis to the 582 Class
5 Members will be $\$995,000 - (\$30,000 + \$12,000 + \$37,312.50 + \$328,350 + \$20,000) =$
6 $\$554,900$. Dividing those amounts among the 582 Class Members results in an average payment
7 of \$953 per Class Member. Given the risks in certifying a class through trial and of establishing
8 commonality and typicality of the Plaintiffs' claims as described above, the settlement amount is
9 in the best interests of the Class; thus, an average settlement recovery of \$953 per Class Member
10 is fair, adequate, and reasonable and the PAGA penalties provide a reasonable benefit to the
11 People of the State of California.

12 39. Pursuant to Labor Code § 2699 (1) (2) (effective June 27, 2016), a copy of the
13 proposed and executed Joint Stipulation of Class Settlement and Release, attached hereto as
14 **Exhibit 1**, will be submitted to the Labor and Workforce Development Agency ("LWDA") at the
15 same time that the moving papers were submitted to the Court.

16 I declare under penalty of perjury under the laws of the United States and the State of
17 California that the foregoing is true and correct, executed on November 5, 2021.

18 
19 _____
20 Cristina Molteni