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8 Attorney for Plaintiff VANESSA BUSTOS and all others
similarly situated

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SAN FRANCISCO
11 UNLIMITED JURISDICTION

12 VANESSA BUSTOS and all others similarly
13 situated,

14 Plaintiff,

15 -vs-

16 COFFEE MEETS BAGEL, INC.; ARUM
KANG; DAWOON KANG and DOES 1-60
17 inclusive,

18 Defendants.

Case No. CGC-19-575734

DECLARATION OF CARLOS JATO
IN SUPPORT OF MOTION FOR
ATTORNEY'S FEES, COSTS AND
SERVICE AWARD

Date: July 14, 2022
Time: 2:00 p.m.
Dept 613
Hon. Andrew Cheng

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21 I, CARLOS JATO, declare and state as follows:

22 1. I am one of the attorneys for plaintiffs VANESSA BUSTOS and REZELLE BUSTOS
23 (Hereinafter Plaintiffs) in the case of *Bustos v. Coffee Meets Bagel Inc. San Francisco County*
24 Superior Court Case no. CGC-19-575734 ("CMB" case). I make this declaration in support of
25 plaintiffs' Motion for an Order for an Award of Attorney's Fees, Costs and Service Award to the
26 putative class members.

27 2. I have 10 years of experience as a duly licensed attorney in California. During that time, I

28 JATO DECLARATION

1 have been a solo practitioner working in San Francisco. Even before becoming an attorney in
2 California, I devoted most of my work as support staff of a solo practitioner (Daniel Berko at the
3 law office of Daniel Berko) assisting in litigation of wage and hour class actions. Then, from the
4 moment I was admitted as attorney in California, I co-counseled with Mr. Berko in at least six
5 employment wage and hour cases brought as class actions. All those cases have involved claims
6 of Labor Code and Wage Order violations. Among the cases I have worked as attorney for the
7 plaintiff putative classes of employees and/or representative claims against employers like
8 Comcast, Empire Today LLC, AC Square Inc., NTH Connect, Bath and Body Works, O.C.
9 Communications, Cato Corporation, Fox Transportation Inc., Bay Area Herbs and Specialties,
10 and Deliver MD dba Smoakland and others. These cases have been prosecuted in Federal and
11 State Courts. About five of them were certified as class actions. The cases cited involve the
12 complete range of California Labor Code wage and hour claims and some of them included
13 misclassification claims very similar to those at issue in this case against CMB. The vast majority
14 of these cases also involve PAGA claims on behalf of the Labor Workforce Development Agency
15 (a form of *qui tam* action).

16 3. Coffee Meets Bagel runs an online dating service. Arum Kang and Dawoon Kang are the
17 officers and managing agents of CMB (hereinafter the Kang sisters). Vanessa Bustos (“VB”) and
18 Rezelle Bustos (“RB”) performed work for defendants as customer support staff and they are the
19 named plaintiffs. The nature of Plaintiffs’ job involved responding to customer complaints aid in
20 resolving any difficulties customers had while using the CMB’s platform.

21 4. Plaintiffs engaged in significant discovery including requiring CMB to produce over eight
22 hundred pages of documents and I have propounded multiple sets of discovery with over one
23 hundred requests. I deposed CMB’s person most knowledgeable in employment and payroll
24 policies, David Miller. In addition, after sending a *Bellaire* notice, I interviewed several of the
25 60+ putative class members in preparation for the case.

26 5. We conducted an early mediation with CMB on August 26, 2020 with mediator Mark
27 Lehoky which lasted an entire day. Unfortunately, the case did not settle.

1 6. Following the deposition of Mr. Miller, plaintiff amended the complaint to add Rezelle
2 Bustos to the complaint as a co-plaintiff. With a second class representative and on the final
3 stretch before filing their motion for class certification, the parties agreed to a second mediation.
4 This time, the mediator picked by the parties was Michael Loeb. This second mediation with
5 Michael Loeb took place on April 19, 2021 beginning in the morning and reaching a full
6 settlement of the case in the late night hours of April 19, 2021.

7 7. The Court has ordered, in the context of the proposed class settlement, a letter to be sent to
8 the class in order to give class members an opportunity to comment about the settlement. This
9 motion only addresses the request for an award of attorney's fees, costs and the two service
10 awards to the class representatives (\$2,500.00 incentive for Vanessa Bustos and \$1,000.00 for
11 Rezelle Bustos).

12 8. The settlement is not conditioned on approval of the attorney's fees, costs or the class
13 members' incentive payment. Any money not paid out will go to the class and ultimately to the *cy*
14 *pres.*

15 9. Attached hereto is a true and correct break down of the total hours of work performed in
16 this case by me and my co-counsel Daniel Berko in this matter, the lodestar calculation at the
17 bottom of the exhibit is based on my most current billing rate (\$575.00 per hour). No secretarial,
18 administrative or other staff time (including paralegal time) is being billed or requested. Mr.
19 Berko's hourly rate of \$800.00 is used to calculate his lodestar, also at the bottom of the exhibit.

20 10. If the Court chooses to perform a lodestar cross-check in this case, such a cross-check will
21 confirm the reasonableness of Plaintiffs' fee request. As show in exhibit "A" hereto, Counsel's
22 aggregate lodestar amounts to \$98,337.25 which represents 153.45 hours of attorney work on this
23 litigation incurred from its inception through the Motion for Attorney's fees. Typically, the
24 lodestar is merely the starting point of the calculation of a reasonable fee, and courts often
25 multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, and the
26 novelty and difficulty of the issues involved. See *Beasley v. Wells Fargo Bank* (1991) 235
27 Cal.App.3d 1407, 1419; *Coal for L.A. County Planning v. Bd. Of Supervisors* (1977) 76

1 Cal.App.3d 241,251.

2 11. In preparing this declaration, I reviewed the case file and emails related to this matter.
3 Based on my review of these records, I can attest that all of the time spent forth was reasonably
4 devoted to pursuing the claims of my clients and the putative class. The amount we spent in the
5 individual claims of wrongful termination of VB was marginal (at most 4 hours) compared to the
6 work we spent in proving the class wide claims of wage and hour violation for the entire class.

7 12. These hours were reasonable incurred given the complexity of the issues involved, the
8 vigorous defense, the length and intensity of the litigation and the exceptional results obtained
9 (the gross amount of \$230,000 for 67 class members).

10 13. As a result of my years of experience, I have become familiar with the non-contingency
11 market rates charged by attorneys in California which in my experience are generally based on an
12 attorney's current rate at the time a motion for fees is made. Considering that my work in this
13 case begun in mid 2019, under the adjusted 2019 Laffey Matrix, a reasonable rate for an attorney
14 with 8-10 years' experience like me is \$575.00 per hour.¹

15 14. As we disclosed to the court in the preliminary approval of settlement motion, Mr. Berko
16 and I have received in total \$5,666.00 as fees from the settlement of Ms. Bustos wrongful
17 termination settlement. Even if the court deducts this amount form the attorney's fees incurred,
18 the requested award for fees and costs in the amount of \$76,666.67 is less less than our combined
19 lodestar.

20 I declare under the penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct. San Francisco, California.

22 Dated: May 31, 2022

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24 
25
26 CARLOS JATO

27 ¹ <http://www.laffeymatrix.com/see.html>

“A”

| Date | JATO | BERKO | DESCRIPTION OF WORK PERFORMED |
|------------|------|-------|--|
| 1/25/2019 | 1 | | meet w client re. dispute w CMB and emails re same |
| 1/27/2019 | 0.6 | | review time sheets of VB |
| 1/30/2019 | 0.6 | | draft correspondence to opposing side with summary of claims |
| 2/2/2019 | 0.7 | | continue drafting corr re summary of claims |
| 2/14/2019 | 0.6 | | draft correspondence and share w client |
| 2/21/2019 | 0.4 | | finalize and send out correspondence to defendants with summary of claims |
| 2/28/2019 | 0.5 | | emails with opposing counsel re VB claims |
| 3/1/2019 | 0.7 | | prose and draft tolling agreement while on going settlement discussions |
| 3/5/2019 | 0.6 | | review and exchange emails re tolling agreement |
| 3/7/2019 | 0.4 | | review and execute tolling agreement |
| 3/27/2019 | 0.2 | | email with new deff counsel |
| 4/8/2019 | 0.7 | | call with opp counsel and confirmation emails |
| 4/15/2019 | 0.8 | | review corr from opp course re claims |
| 4/15/2019 | 0.3 | | review documents from client |
| 4/24/2019 | 0.4 | | research re claims in deff letter |
| 4/25/2019 | 0.3 | | review further time records of client |
| 4/29/2019 | 0.4 | | review further training records |
| 5/1/2019 | 0.3 | | email with client re claims |
| 5/5/2019 | 0.7 | 2.5 | first draft of Class Action complaint and discuss w co-counsel |
| 5/6/2019 | 0.4 | | finalize complaint, file and get it served |
| 5/7/2019 | 0.2 | | email from opp counsel re lawsuit. |
| 5/5/2019 | 0.8 | | draft PAGA letter |
| 5/6/2019 | 0.5 | | finalize and send out PAGA letter |
| 5/14/2019 | 0.6 | | multiple emails with opp counsel re case |
| 5/17/2019 | 0.2 | | email from 3rd new attorney for CMB |
| 5/22/2019 | 0.8 | | draft Special Rogs to CMB amd send out |
| 5/29/2019 | 0.3 | | email w opp counsel |
| 6/4/2019 | 0.8 | | emails and call w opp counsel re pleadings and disco |
| 6/9/2019 | 0.2 | | review email re client's misclassification |
| 6/27/2019 | 0.2 | | review email between co-counsel w CMB counsel |
| 7/15/2019 | 0.8 | | prepared amended complaint and file it, emails re stip on discovery |
| 8/6/2019 | 0.5 | | email w opp counsel re discovery |
| 8/10/2019 | 0.7 | | email to opp counsel with response re. PAGA letter comments |
| 8/14/2019 | | 0.8 | begin draftin motion to amend |
| 8/15/2019 | 0.6 | | email w opp counsel re amendmend to complaint re PAGA |
| 8/15/2019 | 1.2 | | prepare and serve three sets of discovery |
| 8/16/2019 | 0.2 | | review email re filing amended complaint |
| 7/18/2019 | 0.8 | | after court reject pleading, prepare stip and circulate to opp counsel |
| 8/23/2019 | 0.2 | | review signed stip by opp counsel to file amended complaint |
| 8/24/2019 | 0.8 | | preapare motion to send a Bellaire notice |
| 8/28/2019 | 0.9 | | finalize Bellaire motion prepare ex parte to file stip re amended complaint, get reservation and gile w court Bellaire n |
| 9/4/2019 | 0.6 | | file amended complaint per order |
| 9/13/2019 | 0.3 | | email with client re update |
| 9/11/2019 | 0.8 | 0.3 | review opposition to Bellaire motion and discuss reply w co-counsel |
| 9/14/2019 | | 0.3 | begin reply iso Bellaire |
| 9/15/2019 | | 0.9 | finalize and serve Bellaire reply |
| 9/23/2019 | 0.2 | | review tentative re bellaire |
| 9/25/2019 | 0.6 | | prepare order on bellaire motion |
| 10/3/2019 | 0.4 | | multiple emails w opp counsel and TPA |
| 10/4/2019 | 0.2 | | review TPA materials |
| 10/7/2019 | 0.3 | | further emails re TPA admin of belliare |
| 10/10/2019 | 0.6 | | email re further issue with TPA admin to resent notice |
| 10/11/2019 | 0.3 | | further emails re resending notice to putative class. |
| 10/11/2019 | 0.7 | | email meet and confer discovery responses Srogs |
| 10/14/2019 | 0.8 | | review responses to responses pursuant to M&C |
| 10/18/2019 | 0.2 | | review weekly report from TPA |
| 10/25/2019 | | 0.3 | review weekly report from TPA |
| 11/13/2019 | 0.2 | | review notice of trial objection |
| 11/14/2019 | 0.5 | | prepare and file deposit of jury fees |
| 12/7/2019 | 0.4 | | email w client |
| 1/10/2020 | 0.5 | | further meet and confer on Srogs and Frogs |
| 1/13/2020 | | 0.9 | review CMB response to M&C and respond |
| 1/14/2020 | | 0.7 | further review second response end email back re disco M&C |
| 1/17/2020 | | 0.3 | email w CMB counsel re need for phonecall m&c |
| 1/23/2020 | 0.5 | | prepare and conduct phone call m&C and confirmation email |
| 2/14/2020 | 0.4 | | email comm with class membr |
| 2/4/2020 | 0.3 | | email to opp counsel re delay in reponse |
| 2/18/2020 | 0.2 | | review email from opp counsel w further delay |
| 3/3/2020 | 0.3 | | review email from opp counsel with additional class member contact infor |
| 3/6/2020 | 0.3 | | email follow up re discovery issues |
| 3/29/2020 | 0.8 | | begin preparing class form of questionnaire |

| | | | |
|------------|-----|-----|--|
| 3/31/2020 | 0.6 | 0.6 | finalize drafting and discuss questionnaire with co counsel |
| 4/2/2020 | 0.3 | 0.2 | further research re service of docs electronically during pandemic and stip to do so. |
| 4/7/2020 | 0.2 | | review complex designation by CMB |
| 4/13/2020 | 0.4 | | review first round of discovery to VB and email client |
| 5/6/2020 | 0.2 | | email w client |
| 5/8/2020 | 0.7 | | call and emails w opp counsel re disco |
| 5/9/2020 | 0.6 | | further work on discovery reponses w client |
| 5/11/2020 | 0.9 | | emails and work on disco responses |
| 5/12/2020 | 0.5 | | call re disco responses |
| 4/1/2020 | 0.2 | | email confer re disco w opp counsel |
| 5/20/2020 | 0.7 | | work in discovery responses |
| 5/22/2020 | 0.7 | | continue work in discovery responses |
| 6/10/2020 | 0.9 | | continue work in discovery responses |
| 6/12/2020 | 0.5 | | continue work in discovery responses |
| 7/25/2020 | 0.9 | | continue work in discovery responses |
| 7/27/2020 | 0.5 | | finalize and serve discovery responses |
| 6/17/2020 | 0.2 | | email re extend deadline on MTC |
| 6/23/2020 | 0.2 | | email discussion about mediator |
| 6/26/2020 | 2,5 | | email re mediation and research re same |
| 7/2/2020 | 0.3 | | emails re mediators and discussion about |
| 7/9/2020 | | 0.5 | review and edit joint CMC |
| 7/13/2020 | 0.2 | 0.2 | review CMC Order |
| 7/16/2020 | 0.3 | | review and research proposed mediators |
| 7/20/2020 | 0.6 | | prepare depo notice to PMK and RFPD |
| 7/21/2020 | 0.2 | | discuss possible dates for mediation |
| 7/24/2020 | 0.3 | | confer on mediation and disco |
| 7/27/2020 | 0.7 | | finalize PMK depo notice and RFPD and send out |
| 7/27/2020 | | 0.3 | further discussin mediation date |
| 7/30/2020 | | 0.6 | further deiscussing mediation date and documents needed for mediation |
| 8/24/2020 | 0.6 | 1 | prepre and attend pre mediation meeting |
| 8/26/2020 | 8 | 8 | prepare and attend mediation with Lehokey |
| 7/31/2020 | 0.3 | | review objection to pmk depo notice |
| 8/5/2020 | 0.6 | | prepare and send meet and confer on pmk depo and RFPD |
| 8/7/2020 | 0.8 | 0.3 | initial review of mediation production by CMB 888 pages |
| 8/18/2020 | 0.4 | | multiple email re discovery |
| 8/21/2020 | 1 | 1 | perapre for and meet client MSTeams |
| 8/25/2020 | 0.7 | 0.7 | perpare and meet w client via msteams |
| 8/23/2020 | 1.2 | 1 | draft and submit metiation brief |
| 8/24/2020 | 1.3 | 0.3 | finalize review and submit mediation brief |
| 8/25/2020 | 0.5 | 0.3 | review CMB mediation brief |
| 8/25/2020 | | 0.2 | emails re discovery |
| 8/28/2020 | 0.7 | | meet and confer re discovery |
| 8/31/2020 | 0.7 | 0.2 | further confer re second session on mediation and discovery |
| 9/9/2020 | 0.2 | 0.2 | email and discussion re discovery |
| 9/10/2020 | 0.2 | 0.2 | fuether discussion re disco |
| 9/14/2020 | 0.7 | | prepare and send depo notice |
| 9/24/2020 | 0.2 | | review objeciton to depo notice |
| 9/25/2020 | 0.3 | | prepare email meet and confer on depo notice objections |
| 9/30/2020 | | 0.8 | review CMB resp to RFPD and prepare meet and confer |
| 10/13/2020 | | 0.3 | further confer on depo objection |
| 10/14/2020 | 0.3 | | resend notice of depo pmk and arrange reporter |
| 11/12/2020 | 0.3 | | confirm depo pmk and review objection |
| 11/17/2020 | 4 | | review further production of documents, prepare for and conduct depo of pmk |
| 11/25/2020 | 0.3 | | further discussion on a second mediation session |
| 12/1/2020 | 1 | | contact with class member |
| 12/4/2020 | 0.4 | | review pmk depo transcript |
| 12/8/2020 | 0.3 | | review and edit joint CMC |
| 12/9/2020 | 0.2 | 0.2 | review order upon CMC |
| 12/15/2020 | 0.8 | | draft and email proposed 2AC |
| 12/12/2020 | 0.4 | | confer on proposed edits to 2AC |
| 12/13/2020 | 0.3 | | confer on proposed edits to 2AC |
| 12/14/2020 | 0.7 | 0.2 | further research re amending pleading when addin additional class memembr and conferring with opp side |
| 12/15/2020 | 0.6 | | prepare stip to file 2AC and circulate |
| 1/20/2021 | 0.3 | | further research on mediator Loab and a second session. |
| 2/1/2021 | 0.5 | | follow up email with court re stip to amend |
| 2/2/2021 | | 0.4 | further email with court and deliver copy of stip and order |
| 2/8/2021 | 0.2 | | email re mediation with Loeb agree to get dates |
| 2/8/2021 | | 0.3 | review order on stip to file 2AC |
| 2/9/2021 | 0.3 | | further confer re mediation records |
| 3/3/2021 | 0.5 | 0.5 | convo w clients |
| 3/4/2021 | 0.7 | 0.7 | furthe convo w clients |
| 3/10/2021 | 0.2 | | further discussion re dates for 2nd mediation w loeb |

| | | | |
|------------|------|-----|--|
| 3/11/2021 | 0.7 | | review additional production of documents |
| 4/19/2022 | 8.75 | 7.5 | prepare FOR attend and finalize MOU during full day mediation w LOEB |
| 4/2/2021 | 0.7 | | prepare for and attend premediation call |
| 4/2/2021 | 0.3 | | review joint CMCstatement |
| 4/5/2021 | | 0.2 | review Order after CMC |
| 4/12/2021 | 0.7 | | multiple emails re mediation, amend mediation brief and submit |
| 4/20/2021 | 0.3 | | email re ancillary sett documents |
| 5/19/2021 | 0.4 | | begin review of long form Settlement agreement |
| 5/29/2021 | 0.8 | | further review SA |
| 6/2/2021 | | 0.6 | review SA comments from CJ |
| 7/9/2021 | 0.3 | | review CMC joint statement |
| 7/12/2021 | | 0.8 | edit and submit changes to CMC statement |
| 7/19/2021 | 0.5 | | review further changes to SA |
| 7/22/2021 | 0.4 | | further email with negotiation of terms of SA |
| 7/27/2021 | 0.6 | | further review and negotiation of SA terms |
| 8/3/2021 | 0.4 | | further negotiation of SA terms |
| 8/9/2021 | 0.3 | | further negotiation of SA terms |
| 8/13/2021 | 0.2 | | discussion about sett number of individuals |
| 8/16/2021 | 0.4 | | negotiation re who is included |
| 8/20/2021 | | 0.5 | further email about negotiations on SA |
| 8/24/2021 | | 0.7 | email re disagreement on SA term |
| 8/25/2021 | | 0.3 | email response to final negotiation on SA terms |
| 9/3/2021 | | 0.4 | call with Loeb re size of sett class |
| 9/7/2021 | | 0.7 | further comm with loeb re settlement |
| 9/13/2021 | | 0.4 | emails w opp counsel re continue deadlines |
| 9/17/2021 | 0.3 | | email with list of sett class |
| 10/11/2021 | | 0.2 | call re terms of agreement |
| 10/15/2021 | 0.2 | | email to TPA for estimate of added cost |
| 10/25/2021 | 0.3 | | email re TPA cost of admin |
| 10/27/2021 | 0.7 | | final reviews to SA |
| 10/28/2021 | 0.5 | | convo w clients |
| 10/29/2021 | 0.6 | | begin preparing motion for prelim approval |
| 10/31/2021 | 0.6 | | work on prelim app motion |
| 11/1/2021 | | 2 | revise prelim app motion |
| 11/2/2021 | 0.5 | 0.6 | finalize prelim app motion and supp documents and file w court |
| 12/6/2021 | 0.8 | | review court tentative re. prelim app with clients |
| 12/29/2021 | 0.5 | | revise SA and notice per court tent and share w opp counsel |
| 1/4/2022 | 0.2 | | email court to extend deadline |
| 1/7/2022 | 0.5 | | review missing info from opp counsel re class |
| 1/10/2022 | 0.5 | 0.3 | review proposed changes from opp counsel re court tentative |
| 1/12/2022 | 0.6 | | call and email with TPA re changes to scope from court tentative |
| 1/18/2022 | 0.6 | | review dec by TPA in comp with court tentative and email to court |
| 2/2/2022 | 0.2 | | email to court re extension |
| 2/11/2022 | 2 | 0.6 | prepare new declarations and memor iso of prelim approval |
| 2/15/2022 | 0.6 | | fialize agrement and present to clients for signature |
| 2/17/2022 | 0.4 | | further corrections to sett documents |
| 2/20/2022 | 0.6 | | further work in submission to court |
| 2/24/2022 | 0.5 | | submit to court additional papers iso prelim app |
| 4/8/2022 | 0.3 | | review prelim app order |
| 5/22/2022 | 2 | | Prepare fee motion |
| 5/23/2022 | 0.5 | | prepare fee motion |
| 5/25/2022 | 0.5 | | prepare fee motion and research re same |
| 5/27/2022 | 0.5 | 2 | prepare fee motion |
| 5/29/2022 | 0.5 | 0.4 | prepare fee motion |
| 5/30/2022 | 1.2 | | prepare fee motion |
| 5/31/2022 | 0.8 | 0.5 | final review fee motion and filing |

Hours 108.55 44.9

153.45

Lodestar \$ 62,416.25 \$ 35,920.00

Tot Combined Lodestar \$ 98,336.25