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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

CLASS ACTION

CASE NO. CGC-17-560186

AARON SADINO and ANTHONY
JOHNSON, individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

PROPARK AMERICA WEST, LLC; JOHN
STEELE; MICHAEL HEWITT; RYAN
DREISBACH; PRO PARK INC; RICHARD
DIPIETRO; TIM WILLEY; PATRICK
BOESHANS and DOES 5 through 50,
Inclusive,

Defendants.

**DECLARATION OF MATTHEW
RIGHETTI IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION
COSTS, CLASS REPRESENTATIVE
ENHANCEMENTS AND
ADMINISTRATION COSTS**

Date: June 29, 2021

Time: 8:30 a.m.

**Hon. Andrew Y.S. Cheng
Dept 6**

1 I, MATTHEW RIGHETTI, declare that:

2 I make this declaration of my personal knowledge and could testify thereto if called as a
3 witness. This declaration is submitted in support of Plaintiffs' Motion for Attorneys' Fees,
4 Reimbursement of Litigation Costs, Class Representative Enhancements and Administration Costs,
5 and the relief requested therein is consistent with the terms of the Second Revised Class Action
6 Settlement Agreement. A true and correct copy of the Second Revised Class Action Settlement
7 Agreement is marked and attached hereto as Exhibit 1.

8 **EDUCATION AND EXPERIENCE**

9 1. I graduated from the University of California at Berkeley in 1982 with a degree in
10 Economics. I then graduated from the University of San Francisco School of Law in 1985. I am
11 admitted to practice law before the following courts: A) United States Court of Appeal in the Ninth
12 Circuit, the Fourth Circuit and the Federal Circuit; B) United States District Courts in the Northern,
13 Central, Eastern, and Southern Districts of California, and the Northern District of Illinois, and C)
14 all of California's state courts.

15 2. I have been practicing law full time for the past thirty-three (33) years. My practice has been
16 devoted to complex class action litigation for the past twenty-four years. Much of this litigation has
17 involved class action prosecution of wage and hour laws (state and federal), state and federal
18 privacy laws (FCRA and CCCRA) and consumer laws. A sampling of some of the more significant
19 class action cases (including wage and hour litigation) handled by Righetti Glugoski, P.C., includes:

- 20 • Co-lead counsel in *Rocher v. Sav-On Drug Stores* (Hon. Victoria G. Chaney, Los Angeles
21 County Superior Court); See, *Sav-On Drug Stores, Inc. v. Superior Court*, (2004) 34 Cal.4th 319
22 (in a seminal decision, the California Supreme Court unanimously overturned the Court of Appeal's
23 decision to reverse certification). The *Sav-On* litigation was settled after the first phase of trial.
- 24 • Lead counsel in *Gentry v. Circuit City Stores, Inc.*, (2007) 42 Cal.4th 443 (reversing the court
25 of appeal, the California Supreme Court set forth the factors for trial courts to use in determining
26 whether or not to enforce bans on class actions in employment arbitration agreements).
- 27 • Lead counsel in *Crab Addison v. Superior Court*, (2008) 169 Cal.App.4th 958 [representing
28 plaintiffs in wage and hour litigation where court of appeal affirms trial court decision compelling

1 defendant to divulge names and contact information of all putative class members in wage and hour
2 overtime action]. The trial court's subsequent order denying certification was reversed by the court
3 of appeal on November 10, 2014 in a published decision. See, *Martinez v. Joe's Crab Shack*
4 *Holdings*, (2014) 231 Cal.App.4th 362.

5 • Lead counsel in *Rutti v. Lojack Corp., Inc.* (2010) 596 F.3d 1046 [Ninth Circuit grants
6 petition for rehearing reversing district court's summary judgment order setting parameters for the
7 de minimus doctrine and compensable "hours worked" under both state and federal law].

8 • Co-lead counsel in *In re Trans Union Privacy Litigation* (MDL, Northern District of Illinois)
9 [Righetti Glugoski was appointed by the Hon. Marvin E. Aspen to serve as co-lead counsel in
10 multidistrict litigation against Trans Union. The litigation focused on Trans Union's use of its vast
11 database of financial information, which includes the confidential financial information of most
12 adults in the United States, to create and sell "target marketing" lists to advertisers in violation of
13 the FCRA. After nearly a decade of litigation the case resulted in a settlement with Trans Union
14 valued at more than \$100 million (including \$75 million in cash). The settlement obtained final
15 approval from the Hon. Robert Gettleman on September 17, 2008. In August 2009, all appeals of
16 the order approving the settlement were dismissed and the settlement became final. Pursuant to the
17 terms of the settlement, credit monitoring relief was distributed to class members as well as a cash
18 payment to class members. We believe the Trans Union certified class is the largest class of
19 individuals ever certified in the United States.

20 • Counsel in *Elder v. Schwan Foods* (individual exemption misclassification) tried to a jury
21 verdict in the Los Angeles Superior Court. First Appeal: On May 12, 2011, the California Court of
22 Appeal reversed a trial court order that failed to award restitution and penalties following a jury
23 verdict in favor of Righetti Glugoski's client. The Court of Appeal ordered the trial court to
24 reconsider the equitable remedies of restitution and civil penalties. Second Appeal: On February
25 27, 2013, the employer contended it was deprived of its right to a statement of decision because the
26 trial court did not issue a tentative decision. The Court of Appeal rejected the employer's appeal
27 finding both that there was no prejudicial error and there was sufficient evidence in the record to
28 award restitution and civil penalties for violation of California's overtime laws.

• Counsel in the matter *Roberto Martinez et al. v. Joe's Crab Shack Holdings et al.*, 231

1 Cal.App.4th 362 (2014) where the Court of Appeal reversed the trial court's denial of class
2 certification in an executive misclassification case.

3 • Co-counsel in cases against Home Depot and 99 Cent Only Stores where the trial courts
4 limited the California Private Attorney General Act (PAGA) only to claims under the Labor Code
5 and not to claims under the IWC Wage Orders. In both cases the Courts of Appeal reversed in
6 published decisions. See *Home Depot v. Superior Court* (2011) 191 Cal.App.4th 210 (review
7 denied March 16, 2011) (holding PAGA applicable to seating claims on grounds that Labor Code
8 §1198 incorporates IWC Wage Order protections); *Bright v. 99 Cents Only Stores* (2010) 189
9 Cal.App.4th 1472 (review denied February 16, 2011) (same).

10 • Co-counsel in a PAGA action against Bank of America on behalf of California bank tellers.
11 The case was twice dismissed by Judge Real. Judge Real's orders were both reversed by the Ninth
12 Circuit – *Green v. Bank of America, N.A.* (9th Cir. 2015) 634 Fed.Appx. 188. On remand the Ninth
13 Circuit removed the case from the docket of Judge Real and re-assigned it to Judge Percy Anderson.

14 • Class counsel in the certified class action *Hall v. Rite Aid Corporation* pending in San Diego
15 County Superior Court. In 2014 the Fourth District Court of Appeal reversed the trial court's
16 decertification order. See, *Hall v. Rite Aid Corporation*, 226 Cal.App.4th 278 (2014, review denied
17 August 27, 2014). The case settled for \$18M on the day of trial.

18 • I was co-counsel in ground breaking "suitable seating" litigation against Wal-Mart,
19 JPMorgan Chase Bank and CVS Pharmacy Inc. (*Henderson v. JPMorgan Chase Bank* (C.D. Cal.),
20 No. 2:11-CV-03428), *Brown v. Wal-Mart, Inc.* (N.D. Cal.), No. 5:09-cv-03339-EJD, and *Kilby v.*
21 *CVS Pharmacy, Inc.* (S.D. Cal.), No. 09-CV-2051-MMA. The district court in *Wal-Mart* granted
22 class certification based on plaintiffs' construction of the law, while the district courts in *CVS* and
23 *JPMorgan Chase* denied class certification after rejecting plaintiffs' construction of the same law.
24 All three cases were then appealed and coordinated before the Ninth Circuit in December 2013.
25 The Ninth Circuit panel asked the California Supreme Court to accept certification of three
26 questions of statutory construction (739 F.3d 1192). More than two years later, after extensive
27 briefing by the parties and *amici*, the California Supreme Court in April 2016 issued its unanimous
28 opinion in *Kilby* setting forth its definitive construction of the law. *Kilby v. CVS* (2016) 63 Cal.4th
1. Based on this construction by the California Supreme Court, the Ninth Circuit affirmed the grant

1 of class certification in *Wal-Mart* (2016 WL 3212265) and reversed the district court orders in *CVS*
2 and *JPMorgan Chase*. Wal-Mart recently settled for \$65M.

3 3. Righetti Glugoski, P.C. acted as trial counsel in what we believe are the only four class action
4 overtime cases ever to have been tried under the quantitative executive exemption standard
5 articulated in *Ramirez v. Yosemite Water Company*, (1999) 20 Cal.4th 785. I was trial counsel in a
6 class action tried in Los Angeles County Superior Court before the Hon. J. Stephen Czulager,
7 resulting in a finding that U-Haul had misclassified all California salaried “General Managers” as
8 exempt from overtime. I was also trial counsel in a certified class action tried in San Diego County
9 Superior Court before the Honorable Patricia Cowett, resulting in a judgment finding that Party
10 City had misclassified salaried employees as exempt and an award of class wide damages, fees and
11 costs. In the third case, I was trial counsel in the Sav-on overtime litigation where, following
12 remand the courts of appeal, we completed the first phase of trial before the Honorable Victoria G.
13 Chaney in Los Angeles County Superior Court (complex). The case was then settled before the
14 second phase of trial. In the fourth trial I was class counsel in a certified class action against Taco
15 Bell alleging that its restaurant general managers were misclassified as exempt under California
16 law. The case was tried in the San Diego County Superior Court before the Hon. Kevin Enright
and settled after four weeks of trial.

17 4. I was awarded the Daily Journal 2017 CLAY Award (“California Lawyer of the Year”) for
18 my work on suitable seating litigation. I was also honored as one of the Daily Journal’s Top Labor
19 & Employment Lawyers for 2017. I regularly speak on panels that involve class action and
20 employment issues such as trial methodology, class certification, discovery and privacy issues,
21 arbitration agreements and releases, mediation and settlement and recent developments in the
22 field. Speaking engagements are typically for organizations such as the American Conference
23 Institute, California Employment Lawyers Association, Bridgeport CEB, Industrial Relations
24 Association, and a wide range of Bar associations.

25 5. Over the years litigating these kinds of cases, lawyers at Righetti Glugoski have developed
26 a good deal of appellate experience. It is quite common for our class action cases to traverse through
27 the appellate courts during the course of proceedings. We have also represented plaintiffs in many
28 other appellate court decisions in state and federal court and at the NLRB. Righetti Glugoski also

1 represents various amicus groups on occasion in court of appeal proceedings. We have handled
2 appeals throughout California and in the federal courts of the Ninth Circuit, the Seventh Circuit,
3 the Fourth Circuit and the Federal Circuit.

4 **CLASS COUNSEL’S HOURLY RATES ARE REASONABLE**

5 6. I have become familiar with the market rates charged by attorneys in California. I have
6 obtained this familiarity in several ways, including: (1) Researching fee rates; (2) Handling
7 attorneys' fee litigation; (3) Discussing fees with other attorneys; (4) Reviewing declarations
8 regarding prevailing market rates in cases seeking fees; (5) Reviewing attorneys' fee applications and
9 court awards in other cases, as well as (6) Reviewing surveys and articles in legal newspapers and
10 treatises on attorney’s fees.

11 7. In my experience fee awards are almost always determined based on current rates, such as
12 the attorney's rate at the time a motion for fees is made rather than the historical rate at the time the
13 work was performed.

14 8. Litigating a high-stakes case against a moneyed defendant, represented by a top-notch law
15 firm (Littler Mendelson), is not appealing to most lawyers. Heightening the risk is the fact that the
16 plaintiff’s lawyer will have to finance the litigation. It is not a cause undertaken lightly. This case
17 was hard fought on nearly every issue, and even after we reached a settlement -- memorialized by
18 a Memorandum of Understanding – the defendants continued to fight the deal that had been
19 negotiated. One difficulty in determining the hourly rate of attorneys of similar skill and
20 experience in the relevant community is the scarcity of hourly fee-paying clients in wage and hour
21 litigation where “rank and file” employees cannot afford to pay attorneys to recoup unpaid wages.
22 As a practical matter, few if any employees pay attorney's fees on an hourly basis for such litigation.
23 Thus, in such cases attorneys base their retainer agreements on a contingency fee relationship.
24 However, we do know the rates charged by attorneys at comparable firms (such as Sidley Austin)
25 for wage and hour class action litigation based on discovery in a related case. Marked and attached
26 hereto as Exhibit 2 is a true and correct copy of the Sidley Austin hourly fee/rate sheet produced in
27 the *Prizler v. Charter* litigation our first handled showing rates between \$925-\$1000 for partners
28 and \$905-\$540 for associates.

9. The work in this case was taken on a contingency fee basis where we advanced all time and

1 costs. Our firm bore the entire risk and costs of litigation. The subject matter involved California's
2 wage and hour laws. This is a difficult area of law and not within the knowledge of many lawyers
3 as it requires a knowledge of the substantive law (statutes, cases and IWC regulations) both state
4 and federal, plus enforcement positions of state and federal enforcement agencies (DLSE and
5 DOL). Work of this type requires specialized learning and the willingness to take large risks. We
6 attempted to efficiently litigate the claims in this matter using a high level of skill in the difficult
7 questions that arose in this case.

8 10. A practice like ours can only properly litigate so many cases at one time. There is no
9 question that Michael Righetti and I had to pass on other cases and farm out work in other cases in
10 order to meet the demands of this case. And there is no question that Mr. Righetti and I also
11 forewent the opportunity to work on other matters or take on new cases in light of the demands of
12 this case. There is always an "opportunity cost" to taking on litigation. In the present case, the
13 opportunity cost was in fact greater than the request for attorneys' fees itself due to the fact that our
14 lodestar exceeds the fees we are asking the Court to award.

15 11. Righetti Glugoski P.C. did not receive any compensation for our services during the
16 prosecution of this matter, and we had to pay considerable expenses totaling near \$73,000.00 as
17 detailed herein to achieve the Settlement.

18 12. I have had considerable opportunity to familiarize myself with the hourly rates
19 charged by attorneys of varying degrees of experience. In the course of my practice, I have reviewed
20 the hourly rates of dozens of law firms in California and elsewhere. I am also familiar with the
21 hourly rates awarded in many other fees cases by state and federal courts in California and
22 throughout the country. In addition, I have reviewed many published surveys of attorneys' billing
23 rates.

24 13. My current hourly rate is \$850, but I am requesting that the Court approve my hourly
25 rate at \$800. I am aware that my rate is less than the rate of \$925-\$1000 charged by attorneys with
26 similar experience and qualifications who represent commercial and other full-rate clients on an
27 hourly basis. See, e.g., the Sidley Austin rate sheet referenced above. The hourly rate for Michael
28 C. Righetti is \$550; however, he too is requesting that the Court approve a discounted hourly rate
of \$500 per hour. Michael C. Righetti graduated from University of San Francisco School of Law

1 and has been practicing law full time since 2008 (over 12 years). His rate of \$500 was recently
2 approved in 2019 by the Hon. Thomas Kuhnle, Superior Court Judge of Santa Clara County, and
3 his rate of \$550 was most recently approved by the Hon. Sharon J. Waters of Riverside County
4 Superior Court.

5 14. My hourly rate is supported by the extensive and specialized experience I have in
6 these types of cases and recognized expertise described above. Based on my substantial experience
7 in attorneys' fees matters, I believe that my rate is fully consistent with, if not below, the market
8 rate for attorneys with comparable expertise, experience and qualifications. My education and
9 experience are documented herein. I have been practicing law full time for the past thirty-five years.
10 In July of 2017 my rate of \$800 and Michael C. Righetti's rate of \$450 per hour were approved in
11 a contested fee motion by the Honorable Michael W. Fitzgerald in the United States District Court
12 for the Central District of California (*Bargas v. Rite Aid*, CV-13-03865-MWF (JEMx), Docket 161,
13 Order Re Motion for Attorney Fees). The *Bargas* case was an individual wage and hour case. A
14 true and correct copy of the Order is attached hereto as Exhibit 3. Further, in 2010 my hourly rate
15 at that time of \$750/hour was found to be "reasonable" by Judge Argento in San Bernardino
16 Superior Court.

17 15. My rates have also been approved by the Honorable Carl J. West of the Los Angeles
18 Superior Court in the *Davis v. Kohl's* case and the Honorable Ann Jones in the *Rocher v. Sav-On*
19 Los Angeles Superior Court case. I am aware of hourly rates (or their historical equivalents) for
20 other plaintiff counsel that have been approved by numerous courts, including in *Carrillo v.*
21 *Schneider Logistics Transloading & Distribution, Inc., et al.*, No. CV 11-8557 CAS (DTBx) (C.D.
22 Cal.) (September 24, 2015 order approving 2015 rates of \$895/hr for partners, \$775/hr for a 1994
23 law graduate, \$650/hr for a 2000 law graduate, \$630/hr for a 2001 law graduate, \$550/hr for a 2004
24 law graduate, and \$450/hr for a 2008 law graduate, and 2015 rates for Law Clerks (\$275/hr) and
25 Paralegals (\$250/hr)); *Brooks v. U.S. Bank, N.A.*, Case No. C12-4935-EMC (N.D. Cal) (June 16,
26 2014 order approving 2014 rate of \$895/hr for partner, and 2014 rates of \$775/hr for a 1992 law
27 graduate, \$610/hr for a 2001 law graduate, \$540/hr for a 2004 law graduate, \$275/hr for law clerks,
28 and \$250/hr for paralegals); *Luquetta v. Regents of the University of California*, Case No. CGC-
05-443007 (San Francisco County Superior Court) (October 31, 2012 Order approving 2012 rate

of \$850/hr for partner, and 2012 rates of \$700/hr for a 1994 law graduate, \$570/hr for a 2000 law school graduate, \$250/hr for law clerks, and \$215/hr for paralegals); *Vasquez v. State of California*, Case No. GIC 740832 (San Diego County Superior Court) (October 1, 2012 Order approving 2012 rate of \$850/hr for partner in civil rights case and 2012 rate of \$375/hr for 2008 law school graduate); *Div 15 Tech v. Sheet Metal Workers' International Association, Local 104*, Case Nos. No. C 10-05309 JSW, C 10-05312 JSW (approving 2011 rates, including \$545/hr for 2000 law school graduate and \$215/hr for paralegals); *Air Line Pilots Ass'n Int'l v. United Airlines, Inc.*, CGC-07-468937 (JAMS Ref. No. 1100061566) (San Francisco County Super. Ct.) (2011 rates of \$825/hr (partner)); *Zalua v. Tempo Research Corp.*, BC319156 (Los Angeles County Super. Ct.) (2011 rates of \$825/hr (partner))

LITIGATION EFFORTS

16. In preparing this fee application, I reviewed the firm's time records, files and emails. Based on my review of these records, I can attest that the time set forth was reasonably devoted to pursuing the Plaintiffs' and the Class Members interests and otherwise would have been billed to a fee-paying client. To calculate the lodestar for the time spent on this case, I personally prepared and/or supervised the preparation of the billing records incurred in prosecuting the matter. I then reviewed those records and eliminated such time as may be unnecessary, duplicative or inefficient – such as the time spent preparing supplemental submissions in response to the Court's tentative rulings on Plaintiffs' motion for preliminary approval (conservatively estimated at 30-50 hours of attorney time). The billing records for time reasonably spent on this case are attached hereto as Exhibit 4. I believe the hours submitted are reasonable and non-duplicative.

17. The aggregate lodestar amounts to \$550,888.50 (without future hours), which represents 841.2 hours of attorney work and 270.9 paralegal hours from the case's inception in 2017 through the filing of this Motion for Attorneys' Fees, Reimbursement of Litigation Costs, Class Representative Enhancements and Administration Costs. The attorney hours are broken down as follows: Matthew Righetti: 285.3 hours at \$800/hour; Michael C. Righetti: 555.9 hours at \$500/hour. The paralegal hours 270.9 hours at \$165/hour.

18. The amount of time spent on this case is reasonable given the complexity and novelty of the issues involved, the vigorous defense, the length and intensity of the litigation, and the results

1 obtained. Since its inception four years ago, Plaintiffs faced a vigorous defense that included
2 removal to federal court, remand to state court, discovery disputes (formal and informal), class
3 certification motion, failed mediations, further negotiations and a motion to enforce the settlement,
4 among other things. Class Counsel litigated this action with skill and efficiency reflecting the
5 amount of work required to achieve the Settlement. Once the settlement was consummated and
6 notice sent to the Class Members our work did not stop. We have continued to communicate with
7 Class Members and fielded hundreds of phone calls from Class Members about how and whether
8 to participate in the settlement.

9 **Counsel's Costs**

10 19. Class Counsel requests that its costs be reimbursed in the amount of \$72,199.07.
11 Righetti Glugoski reasonably incurred these costs in the prosecution of this matter, and our firm
12 will incur additional costs before the case is fully concluded. Our firm's costs are categorized in a
13 spreadsheet, a true and correct copy of which is attached hereto as Exhibit 5.

14 **CLASS REPRESENTATIVE ENHANCEMENT**

15 20. I believe that the success of this case is due *in large part* to the commitment of the
16 class representatives Aaron Sadino and Anthony Johnson. Each Plaintiff was indispensable to the
17 litigation throughout all stages of this case, including pre-filing investigation, discovery, class
18 member outreach, and the settlement process. The Declarations of Mr. Johnson and Mr. Sadino
19 detail their efforts as well as the personal struggles they experienced as a result of their experiences
20 working for the defendant while also advocating for themselves and the class members. Messrs.
21 Johnson and Sadino were exemplary class representatives, and I do not make that statement lightly.
22 They were responsive, meticulous, and engaged at every step of the case, and I respectfully urge
23 the Court to not reduce the amount of their class representative enhancement awards. I fully support
24 their request for an enhancement of \$20,000.00, and I believe it is entirely reasonable in light of the
25 time they spent and the quality of the effort the expended to secure the settlement on behalf of
26 themselves and the class members.
27
28

EXHIBITS

21. Attached hereto as Exhibit 1 is a true and correct copy of the Second Revised Class Action Settlement Agreement.

22. Attached hereto as Exhibit 2 is a true and correct copy of Sidley Austin's rate sheet for partners and associates that Plaintiffs' counsel obtained during other litigation.

23. Attached hereto as Exhibit 3 is a true and correct copy of the Order re Motion for Attorneys' Fees entered in *Marine Bargas v. Rite Aid Corporation, et al.* CV-13-03865-MWF (JEMx), Docket 161, Order Re Motion for Attorney Fees.

24. Attached hereto as Exhibit 4 is a true and correct copy of a summary of Righetti Glugoski P.C.'s billing records for attorney and paralegal time associated with this matter.

25. Attached hereto as Exhibit 5 is a true and correct copy of a spreadsheet of costs incurred by Righetti Glugoski P.C. in connection with the prosecution of this matter.

26. Attached hereto as Exhibit 6 is a true and correct copy of the Declaration of Elizabeth Kruckenberg on behalf of Phoenix Settlement Administrators detailing the basis for their request for settlement administration costs of \$42,500.00.

27. Marked and attached hereto as Exhibit 7 is a true and correct copy of the Declaration of Aaron Sadino.

28. Marked and attached hereto as Exhibit 8 is a true and correct copy of the Declaration of Anthony Johnson.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7th day of May, 2021 at San Francisco, CA.

RIGHETTI GLUGOSKI, P.C.

By: _____

Matthew Righetti

EXHIBIT 1

MEL M.C. COLE, Bar No. 293265
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Attorneys for ALL DEFENDANTS

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

AARON SADINO and ANTHONY
JOHNSON individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

PROPARK AMERICA WEST, LLC;
JOHN STEELE; MICHAEL HEWITT;
RYAN DREISBACH, PRO PARK INC;
RICHARD DIPIETRO; TIM WILLEY,
PATRICK BOESHANS and DOES 5
through 50, inclusive,

Defendants.

Case No. CGC-17-560186

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE ANDREW Y.S. CHENG, DEPT.
613

**SECOND REVISED CLASS ACTION
SETTLEMENT AGREEMENT**

Complaint Filed: July 18, 2017
FAC Filed: August 28, 2017
SAC Filed: September 27, 2019

1 This Revised Class Action Settlement Agreement and Release, including all exhibits
2 attached hereto (“Settlement Agreement” or “Agreement”), is made and entered into by, between,
3 and among Plaintiffs Aaron Sadino and Anthony Johnson (“Plaintiffs”) on behalf of themselves and
4 the Settlement Class (as defined below) and the State of California Labor and Workforce
5 Development Agency (“LWDA”), on the one hand, and Defendants Propark America West, LLC
6 and Propark Inc.; (collectively “Defendant” or “Propark”)¹ on the other hand. Plaintiffs and
7 Defendant (collectively, the “Parties”)² enter into this Agreement to effect a full and final settlement
8 and preclusive judgment resolving all claims brought or that could have been brought against all
9 defendants named in *Aaron Sadino and Anthony Johnson v. Propark America West, LLC; John*
10 *Steele; Michael Hewitt; Ryan Dreisbach; Pro Park Inc. [sic]; Richard Dipietro; Tim Willey; and*
11 *Patrick Boeshans*, Case No: CGC-17-560186 filed in San Francisco Superior Court on July 18,
12 2017 and all amended complaints filed thereafter (the “Action”), and all claims based on to the facts
13 asserted therein. This Agreement is intended to fully and finally compromise, resolve, discharge,
14 and settle the Released Claims, as defined and on the terms set forth below, and to the full extent
15 reflected herein, subject to the approval of the Court.

16 **I. RECITALS**

17 This Agreement is made in consideration of the following facts:

18 1.1 WHEREAS, on July 18, 2017, Plaintiffs Aaron Sadino filed a putative class action
19 complaint against Propark America West, LLC, John Steele, Michael Hewitt, and Ryan Dreisbach in
20 San Francisco Superior Court, Case No. CGC-17-560186 asserting various wage-related claims, on
21 behalf of himself and a proposed class consisting of all of Defendant’s parking and valet services
22 employees in California, and alleging the following five causes of action (1) failure to provide meal
23 periods, (2) failure to provide rest periods, (3) failure to provide accurate itemized wage statements,
24 (4) waiting time penalties, and (5) unfair business practices. On August 28, 2017, Plaintiff Sadino
25

26 ¹ The term “defendants”, plural and lower case, shall refer to all named defendants in the Action: Propark America West,
27 LLC; John Steele; Michael Hewitt; Ryan Dreisbach; Propark Inc.; Richard Dipietro; Tim Willey; and Patrick Boeshans.

28 ² The terms “party” and “parties”, lower case, shall refer to all parties to the Action (as opposed to only the Parties to the Agreement): Aaron Sadino; Anthony Johnson; Propark America West, LLC; John Steele; Michael Hewitt; Ryan Dreisbach; Propark Inc.; Richard Dipietro; Tim Willey; and Patrick Boeshans.

1 filed a First Amended Complaint, adding a cause of action for (6) violation of the Private Attorneys
2 General Act ("PAGA"). On September 27, 2019, Plaintiff Sadino filed a Second Amended
3 Complaint, adding Anthony Johnson as a plaintiff and Propark Inc., Richard Dipietro, Tim Willey,
4 and Patrick Boeshans as defendants. For the purposes of this Settlement Agreement only, Plaintiffs
5 and Defendants hereby stipulate and agree, subject to the Court's entry of an order approving the
6 same, that Plaintiffs have leave to file a Third Amended Complaint ("TAC") attached hereto as
7 Exhibit A, which includes additional direct statutory claims for unpaid wages, including minimum,
8 regular and overtime wages, in so far as the underpayment or nonpayment of wages stemmed from
9 meal period and/or rest break violations only, and clarifying and/or supplementing existing
10 allegations in support of such claims. Defendant is deemed to have generally denied all of the
11 allegations set forth in the TAC pending final approval of this settlement;

12 1.2 WHEREAS, Defendant denies the allegations in the Action; denies that it has
13 engaged in any wrongdoing; denies that Plaintiffs' allegations constitute valid claims; denies that a
14 litigation class could properly be certified in the Action; denies that Plaintiffs' claims could properly
15 be maintained as a PAGA representative action; and states that it is entering into this Settlement
16 Agreement solely to eliminate the burden, expense, and delay of further litigation, and on the express
17 conditions that (a) if for any reason the Settlement is not finalized according to the terms of this
18 Agreement, the Settlement and the documents generated as a result of the Settlement shall not be
19 usable for any purpose in the Action, and (b) this Settlement and the documents generated as a result
20 of the Settlement are not admissible or usable in any other civil or administrative proceeding or any
21 arbitration, except to the extent necessary to enforce this Settlement and the orders, judgment and
22 agreements arising from this Settlement;

23 1.3 WHEREAS, a bona fide dispute exists as to whether any amount of wages or
24 penalties are due from any of the defendants to any Plaintiff, Settlement Class Member or to the
25 LWDA;

26 1.4 WHEREAS, while litigating the Action, the parties engaged in substantial discovery,
27 including requests for depositions, document requests, interrogatories, and requests for admission
28

propounded by both Plaintiffs and Defendant, and to which both responded and produced documents, and all parties provided testimony;

1.5 WHEREAS, in preparation for mediation, the Parties also engaged in informal discovery, exchanging information and reviewing and analyzing extensive data made available by Defendant, which enabled Plaintiffs and the mediator to thoroughly evaluate Plaintiffs' claims and the claims of the putative class, and the likely outcomes, risks and expense of pursuing litigation;

1.6 WHEREAS, the Parties attended two in-person mediation sessions with professional mediator Louis Marlin, Esq., where the Parties discussed settlement terms at length with the mediator and directly for some time after, before agreeing to the terms of this arm's-length Settlement;

1.7 WHEREAS, although the parties did not reach a settlement at either mediation, negotiations continued at arms-length with the assistance of Lou Marlin, and on March 2, 2020, counsel for both parties executed a Memorandum of Understanding that contained the preliminary terms of this Settlement Agreement. Following a motion brought by Plaintiffs to enforce the MOU, the Court deemed the MOU to be an enforceable settlement agreement. Subsequently, counsel for Defendant drafted this Settlement Agreement for review and approval by Plaintiffs and their counsel.

1.8 WHEREAS, Plaintiffs and Class Counsel believe that the Settlement provides a favorable recovery for the Settlement Class, based on the claims asserted, the evidence developed, and the damages that might be proven against defendants in the Action. Plaintiffs and Class Counsel further recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against defendants through trial and appeals. They also have considered the uncertain outcome and the risk of any litigation, especially in complex litigation such as the Action, as well as the difficulties and delays inherent in any such litigation. They are also mindful of the inherent challenges of proof and the strength of the defenses to the alleged claims, and therefore believe that it is desirable that the Released Claims be fully and finally compromised, settled, and resolved as set forth herein, subject to the approval of the Court;

1.9 WHEREAS, Plaintiffs and Class Counsel, based on their own independent investigations and evaluations, have examined the benefits to be obtained under the terms of this

1 Settlement Agreement, have considered the claims of Plaintiffs, the claims of the average Settlement
2 Class Member, the risks associated with the continued prosecution of the Action, and the likelihood
3 of success on the merits of the Action, and believe that, after considering all the circumstances,
4 including the uncertainties surrounding the risk of further litigation and the defenses that defendants
5 has asserted and could assert, the proposed Settlement set forth in this Agreement is fair, reasonable,
6 adequate, in the best interests of Plaintiffs and the Settlement Class, and confers substantial benefits
7 upon the Settlement Class;

8 1.10 WHEREAS, Plaintiffs warrant and represent that they are effecting this Settlement
9 and executing this Agreement after having received full legal advice as to their respective rights and
10 have had the opportunity to obtain independent counsel to review this Agreement;

11 1.11 WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement,
12 and any of the terms of this Agreement, and any documents filed in connection with the Settlement
13 shall not constitute, or be offered, received, claimed, construed, or deemed as, an admission, finding,
14 or evidence of: (i) any wrongdoing, (ii) any violation of any statute or law, (iii) any liability on the
15 claims or allegations in the Action on the part of any Released Parties, or (iv) the propriety of
16 certifying a litigation class or pursuing representative relief under the PAGA in the Action or any
17 other proceeding; and shall not be used by any person for any purpose whatsoever in any legal
18 proceeding, including but not limited to arbitrations, and/or other civil and/or administrative
19 proceedings, other than a proceeding to enforce the terms of the Agreement. There has been no final
20 determination by any court as to the merits of the claims asserted by Plaintiffs against defendants,
21 nor has there been any final determination as to whether a class should be certified or whether
22 PAGA representative claims may properly be pursued, other than for settlement purposes only;

23 1.12 WHEREAS, for settlement purposes only, Defendant will stipulate to the certification
24 of class claims that are subject to the certification requirements of California Code of Civil
25 Procedure Section 382. Defendant disputes that certification is proper for the purposes of litigating
26 the class claims proposed in or flowing from the claims asserted in the Action;

27 1.13 WHEREAS, the Parties desire to compromise and settle all issues and claims that
28 were or could have been brought against defendants based on the facts alleged in the operative

1 complaint, including all claims brought on behalf of the putative class and PAGA representative
2 basis in the Action;

3 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by
4 Plaintiffs for themselves and on behalf of the Settlement Class, and by Defendant that, subject to the
5 approval of the Court, the Action shall be settled, compromised, and dismissed, on the merits, and
6 the Released Claims shall be finally and fully compromised, settled and dismissed as to the Released
7 Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

8 **II. DEFINITIONS**

9 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the
10 meanings set forth below:

11 2.1 “Class Counsel” means Righetti Glugoski P.C.

12 2.2 “Class Counsel Award” means (i) the attorneys’ fees for Class Counsel’s litigation
13 and resolution of the Action, and all claims resolved by this Settlement, as awarded by the Court,
14 which will be paid exclusively from the Total Settlement Amount, and may not exceed thirty-five
15 percent (35%) of the Total Settlement Amount and (ii) all expenses and costs incurred by Class
16 Counsel in litigation and resolution of the Action, and all claims resolved by this Settlement, in the
17 amount of \$75,000.00, which will be paid exclusively from the Total Settlement Amount. To the
18 extent that any amount of the Class Counsel Award is not awarded by the Court, that amount shall
19 be redistributed to the Settlement Class Members pro rata as part of their Individual Settlement
20 Awards.

21 2.3 “Class Information” means information regarding Settlement Class Members that
22 Defendant will in good faith compile from its records and provide to the Settlement Administrator.
23 Class Information shall be provided in a Microsoft Excel spreadsheet and shall include, if possible,
24 for each Settlement Class Member: full name, last known address, social security number, and Pay
25 Periods Worked. Because Settlement Class Members’ private information is included in the Class
26 Information, Class Counsel and the Settlement Administrator shall maintain any Class Information
27 received in confidence and shall use and disclose Class Information only for purposes of this
28 Settlement and for no other purpose, and pursuant to the restrictions as described in Paragraph 5.5.

1 Further, within the Settlement Administrator's operations, access shall be limited to those personnel
2 with a need to use the Class Information as part of the administration of the Settlement.

3 2.4 "Class Notice" means the notice of class action settlement to be provided to
4 Settlement Class Members, without material variation from the relevant portion of Exhibit B.

5 2.5 "Court" means San Francisco County Superior Court.

6 2.6 "Effective Date" means one (1) day after which both of the following events have
7 occurred: (i) the Court's Final Approval order has been entered and (ii) the Court's Final Approval
8 order and Judgment have become Final.

9 2.7 "Exclusion/Written Objection Deadline" means the final date by which a Settlement
10 Class Member may either (i) submit a written objection to any aspect of the Settlement or complete
11 the Objection Form found at Exhibit E, or (ii) request to be excluded from the Settlement by
12 completing, signing and returning the Exclusion Form (Exhibit D). The Exclusion/Written
13 Objection Deadline is a postmark deadline that shall be thirty (30) days after the Notice Date, and
14 shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

15 2.8 "Final" when referring to a judgment or order, means that (i) the judgment is a final,
16 appealable judgment; and (ii) either (a) no appeal has been taken from the judgment as of the date on
17 which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the
18 judgment having been commenced, such appeal or other review is finally concluded and no longer is
19 subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions
20 for re-hearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review
21 has been finally resolved in such manner that affirms the judgment order in its entirety, and
22 remittitur has been issued.

23 2.9 "Final Approval" means the Court's entry of a Final Approval order finally approving
24 this Settlement.

25 2.10 "Final Approval Hearing" means the hearing at or after which the Court will make a
26 final decision as to whether the Settlement is fair, reasonable, and adequate, and therefore, finally
27 approved by the Court.
28

1 2.11 “Individual Settlement Payment” means the amount payable from the Total
2 Settlement Amount to each Settlement Class Member who does not opt out, for each of the three
3 distributions, half of which shall be issued as wages, less applicable withholdings and for which an
4 IRS Form W-2 shall issue if required, and half of which shall be issued as non-wages, for which an
5 IRS Form 1099 shall issue if required. The Individual Settlement Payment(s) shall be calculated
6 pursuant to Section V herein.

7 2.11.1 “First Individual Settlement Payment” means the Individual Settlement
8 Payment to be issued in the first distribution of payments to the Settlement Class Members,
9 pursuant to Paragraph 10.5.

10 2.11.2 “Second Individual Settlement Payment” means the Individual Settlement
11 Payment to be issued in the second distribution of payments to the Settlement Class
12 Members, pursuant to Paragraph 10.5.

13 2.11.3 “Third Individual Settlement Payment” means the Individual Settlement
14 Payment to be issued in the third distribution of payments to the Settlement Class Members,
15 pursuant to Paragraph 10.6.

16 2.12 “Judgment” means the judgment to be entered in the Action on Final Approval of this
17 Settlement.

18 2.13 “Legally Authorized Representatives” means an administrator/administratrix,
19 personal representative, or executor/executrix of a deceased Settlement Class Member’s estate; a
20 guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other
21 legally appointed person responsible for handling the business affairs of a Settlement Class Member.

22 2.14 “Named Plaintiffs’ General Released Claims” means any and all past, present, and
23 future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or
24 liabilities, of any nature and description whatsoever, known or unknown, existing or potential,
25 recognized now or hereafter, expected or unexpected, pursuant to any theory of recovery (including
26 but not limited to those based in contract or tort, common law or equity, federal, state, or local law,
27 statute, ordinance, or regulation), and for claims for compensatory, consequential, punitive or
28 exemplary damages, statutory damages, penalties, interest, attorneys’ fees, costs or disbursements,

1 against the Released Parties, including unknown claims covered by California Civil Code section
2 1542, as quoted below in Paragraph 9.4, by the Plaintiffs, arising during the period from the
3 beginning of the Plaintiffs' first interaction with any defendant to the date on which the Court enters
4 the order of Final Approval of this Settlement, for any type of relief that can be released as a matter
5 of law, including, without limitation, claims for wages, damages, unpaid costs, penalties (including
6 civil and waiting time penalties), liquidated damages, punitive damages, interest, attorneys' fees,
7 litigation costs, restitution, or injunctive, declaratory or equitable relief, with the exception of any
8 claims which cannot be released as a matter of law. Plaintiffs will generally release all known and
9 unknown claims against the Released Parties, and waive the application of section 1542 of the
10 California Civil Code. The claims released pursuant to this paragraph include but are not limited to
11 the Settlement Class Members' Released Claims, as well as any other claims under any provision of
12 the Fair Labor Standards Act, the California Labor Code, the California Code of Regulations, or any
13 applicable California Industrial Welfare Commission Wage Order(s), and claims under state or
14 federal discrimination statutes, including, without limitation the California Fair Employment and
15 Housing Act, California Government Code section 12940 *et seq.*; the California Constitution; Title
16 VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Americans with Disabilities Act,
17 42 U.S.C. § 12101 *et seq.*; the Age Discrimination in Employment Act of 1967, as amended; the
18 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; and all of their
19 implementing regulations and interpretive guidelines.

20 2.15 "Notice Date" means the date of the initial distribution of the Class Notice to
21 Settlement Class Members, as set forth in Section VI.

22 2.16 "Opt Out List" means the Court-approved list of all persons who timely and properly
23 request exclusion from the Settlement Class.

24 2.17 "PAGA Claims" means the Plaintiffs' representative claims seeking penalties
25 pursuant to PAGA, as alleged in the Action and/or based on any other provision of the Labor Code,
26 Wage Orders or any other statute or regulation (whether identified in the Action or not) to the fullest
27 extent permitted by law.
28

1 2.18 “PAGA Payment” means a total payment of \$40,000 to settle all claims under the
2 PAGA. From this amount, 75% will be paid to the LWDA for civil penalties pursuant to the PAGA
3 and 25% will be distributed to Settlement Class Members and considered penalties for tax reporting
4 purposes.

5 2.19 “Pay Periods Worked” means the best approximation of the total number of pay
6 periods in which a Settlement Class Member performed any work for Propark, based on the records
7 and data maintained by Propark, for each Settlement Class Member from the time period between
8 July 17, 2013 and March 2, 2020.

9 2.20 “Plaintiffs” means Aaron Sadino and Anthony Johnson.

10 2.21 “Plan of Allocation” means the plan for allocating the Total Settlement Amount
11 between and among Settlement Class Members as approved by the Court.

12 2.22 “Preliminary Approval Date” means the date that the Court enters the Preliminary
13 Approval Order and thus: (i) preliminarily approves the Settlement, and the exhibits thereto, and (ii)
14 enters an order providing for notice to the Settlement Class, an opportunity to opt out of the
15 Settlement Class, an opportunity to submit timely and proper objections to the Settlement, and
16 setting a hearing on the fairness of the terms of Settlement, including approval of the Class Counsel
17 Award.

18 2.23 “Preliminary Approval Order” means the order that Plaintiffs and Defendant will seek
19 from the Court, without material variation from Exhibit F. Entry of the Preliminary Approval Order
20 shall constitute preliminary approval of the Settlement Agreement.

21 2.24 “Released Claims” means (i) Settlement Class Members’ Released Claims and (ii)
22 Named Plaintiffs’ General Released Claims.

23 2.25 “Released Parties” means Propark America West, LLC, John Steele, Michael Hewitt,
24 Ryan Dreisbach, Propark Inc., Richard Dipietro, Tim Willey, Patrick Boeshans, and each of their
25 subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former
26 employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers,
27 predecessors, successors, parent companies and organizations, insurers, and any and all other
28 persons, firms and corporations in which Propark may have an interest.

1 2.26 “Service Awards” means the amounts approved by the Court to be paid to each of the
2 Plaintiffs, in addition to each Plaintiffs’ respective Individual Settlement Payment(s), in recognition
3 of their efforts in coming forward as named plaintiffs, for the time the Named Plaintiffs have
4 expended while pursuing the case, and the Class Representatives’ willingness to expose themselves
5 to the legal system to pursue this case. The Service Awards amount payable to Plaintiffs shall come
6 exclusively from the Total Settlement Amount and are not to exceed \$20,000 each. To the extent
7 that any amount of the Service Awards are not awarded by the Court, that amount will be
8 redistributed pro rata to the Settlement Class Members as part of their Individual Settlement
9 Payments.

10 2.27 “Settlement” means the settlement of the Action between and among Plaintiffs and
11 Defendant, as set forth in this Settlement Agreement.

12 2.28 “Settlement Administrator” means Phoenix Settlement Administrators.

13 2.29 “Settlement Administrator Expenses” means the amount to be paid to the Settlement
14 Administrator exclusively from the Total Settlement Amount, including the total costs, expenses,
15 and fees of the Settlement Administrator. The amount is not to exceed \$42,500.00, which is a bid
16 based on a 65% response rate from Settlement Class Members. To the extent that any amount of the
17 Settlement Administrator Expenses are not awarded by the Court, that amount will be redistributed
18 pro rata to the Settlement Class Members as part of their Individual Settlement Payments.

19 2.30 “Settlement Class” means all current and former parking and valet employees
20 (including valet attendants, parking attendants, cashiers, night auditors, supervisors, and foremen) of
21 Propark America West, LLC in California from July 17, 2013 through March 2, 2020, who do not
22 timely request exclusion from the Settlement.

23 2.31 “Settlement Class Member” means any member of the Settlement Class.

24 2.32 “Settlement Class Members’ Released Claims” means any and all present and past
25 claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities,
26 that each Settlement Class Member had, now has, or may hereafter claim to have against the
27 Released Parties that were asserted in the Complaint, or that could have been asserted in the
28 Complaint based on the facts, circumstances, transactions, events, occurrences, acts, disclosures,

statements, omissions or failures to act alleged in the Complaint, regardless of whether such claims arise under state and/or local law, statute, ordinance, regulation, common law, or other source of law (“the Released Claims”). The Released Claims specifically include claims for: Labor Code sections 201-204, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1194, 1197, 1197.1 and 1198; incorporated or related claims asserted through California Business and Professions Code § 17200; and incorporated or related claims asserted through PAGA. Nothing in this Paragraph is intended to release claims under any federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law that arise from facts outside those alleged in the complaint, specifically potential violations unrelated to a failure to lawfully provide meal periods and/or rest breaks. The “Settlement Class Members’ Released Claims” are released from July 17, 2013 through March 2, 2020.

2.33 “Settlement Class Period” means July 17, 2013 through March 2, 2020.

2.34 “Total Settlement Amount” means One Million Five Hundred Thousand Dollars (\$1,500,000) plus any accrued interest as set forth in Paragraph 4.1, for payment of all claims, which is the maximum amount that Propark is obligated to pay under this Settlement Agreement under any circumstances in order to resolve and settle the Action, subject to Court approval, with the sole exception of the employer-side employment taxes for the wage portion of the settlement, which shall be paid by Propark in addition to the Total Settlement Amount. The Total Settlement Amount includes all costs and fees, including, but not limited to, the Class Counsel Award, Settlement Administrator Expenses, escrow costs and expenses, Service Awards, interest, and taxes and tax expenses (except employer-side employment taxes).

2.35 “Void Date” means the date by which any checks issued to Settlement Class Members shall become void, *i.e.* on the 181st day after mailing.

III. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR PRELIMINARY AND FINAL APPROVAL

3.1 Upon execution of this Settlement Agreement, Plaintiffs shall submit to the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall include a proposed plan for sending of the Class Notice to Settlement Class Members within forty-five (45) days after the Preliminary Approval Date (the Notice Date), and establishing a period of

thirty (30) days from the Notice Date within which any Settlement Class Member may (i) request exclusion from the Settlement Class, (ii) object to the proposed Settlement or any part thereof, (iii) object to Class Counsel's request for the Class Counsel Award and for the Service Awards to the Plaintiffs (the Exclusion/Written Objection Deadline).

3.2 The Parties stipulate to certification under California Code of Civil Procedure Section 382, for settlement purposes only, of the Settlement Class, excluding the Settlement Class's PAGA Claims. The Parties agree that this stipulation shall not be admissible in, and may not be used by any person for any purpose whatsoever in any legal proceeding, including but not limited to any arbitrations and/or any civil and/or administrative proceedings, other than a proceeding to enforce the terms of the Agreement, as further set forth in this Agreement.

3.3 Class Counsel agrees to keep any and all data and other employment and personal information related to the Settlement Class in the strictest confidence, and shall not disclose that data. Any such data provided to Class Counsel shall be treated as privileged mediation communications under Cal. Evid. Code §§ 1115 *et seq.* and designated "Confidential—Attorneys' Eyes Only," except to the extent absolutely necessary (as agreed between the Parties) for approval of the Settlement. Class Counsel agrees to submit such necessary data and information to the Court under seal to the extent appropriate under governing law.

3.4 The Parties stipulate to the form of, and agree to submit to the Court for its consideration this Settlement Agreement, and the following Exhibits to this Settlement Agreement: proposed Third Amended Complaint (Exhibit A); Class Notice (Exhibit B); Dispute Form (Exhibit C); Exclusion Form (Exhibit D), Objection Form (Exhibit E) and [Proposed] Preliminary Approval Order (Exhibit F). These Exhibits can and will be agreed to in an Addendum to the Settlement Agreement pursuant to the terms in Paragraph 12.13.

3.5 Solely for purposes of implementing this Agreement and effectuating the proposed Settlement, the Parties agree and stipulate that:

3.5.1 The Court may enter the Preliminary Approval Order, preliminarily approving the Settlement and this Agreement. If the Court makes material changes to the Preliminary Approval Order as drafted in Exhibit F, the Parties must meet and confer regarding any changes to

1 be made to the Settlement Agreement as a result. If the Parties cannot reach an agreement on the
2 changes, Propark reserves the right to withdraw from the Settlement Agreement and all its terms, as
3 provided in Section XI. Among other things, the Preliminary Approval Order shall grant leave to
4 preliminarily certify the Settlement Class for settlement purposes only; approve the Plaintiffs as
5 class representatives, appoint Class Counsel to represent the Settlement Class, and appoint the
6 Settlement Administrator; approve the Class Notice, and the class notice plan embodied in the
7 Settlement Agreement, and approve them as consistent with California Rules of Court 3.766(d) and
8 3.769(f) and due process; set out the requirements for disputing the information upon which
9 Settlement Class Members' share of the Settlement will be calculated, objecting to the Settlement,
10 excluding Settlement Class Members who timely and properly request to be excluded from the
11 Settlement Class, all as provided in this Agreement; and provide that certification and all actions
12 associated with certification are undertaken on the condition that the certification and other actions
13 shall be automatically vacated and of no force or evidentiary effect if this Agreement is terminated
14 or disapproved, as provided in this Agreement.

15 3.6 Within 10 days of the Preliminary Approval Date, Class Counsel will notify the
16 LWDA of the Preliminary Approval Order.

17 3.7 At the Final Approval Hearing, Plaintiffs shall request entry of a Final Approval order
18 and a Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this
19 Settlement and that, among other things:

20 3.7.1 Finally approves the Settlement as fair, reasonable, and adequate and directs
21 its consummation pursuant to the terms of the Settlement Agreement;

22 3.7.2 Finds that Class Counsel and Plaintiffs adequately represented the Settlement
23 Class for the purpose of entering into and implementing the Agreement;

24 3.7.3 Re-confirms the appointment of the Settlement Administrator and finds that
25 the Settlement Administrator has fulfilled its duties under the Settlement to date;

26 3.7.4 Finds that the Class Notice (i) constituted the best practicable notice; (ii)
27 constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement
28 Class Members of the pendency of the Action, and their right to exclude themselves from or object

1 to the proposed settlement and to appear at the Final Approval Hearing; (iii) was reasonable and
2 constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met
3 all applicable requirements of California Rules of Court 3.766(d) and 3.769(f), due process, and any
4 other applicable rules or law;

5 3.7.5 Approves the Opt-Out List and determines that the Opt-Out List is a complete
6 list of all Settlement Class Members who have timely and properly requested exclusion from the
7 Settlement Class and, accordingly, shall neither share in nor be bound by the Final Approval order
8 and Judgment;

9 3.7.6 Directs that the Final Approval order and Judgment of dismissal shall be final
10 and entered forthwith;

11 3.7.7 Without affecting the finality of the Final Approval order and Judgment,
12 directs that the Court retains continuing jurisdiction over Plaintiffs, the Settlement Class, and
13 Propark as to all matters concerning the administration, consummation, and enforcement of this
14 Settlement Agreement;

15 3.7.8 Adjudges that, as of the Final Approval Date, Plaintiffs, and all Settlement
16 Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out
17 List approved by the Court, and their Legally Authorized Representatives, heirs, estates, trustees,
18 executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors,
19 and/or anyone claiming through them or acting or purporting to act for them or on their behalf,
20 regardless of whether they have received actual notice of the proposed Settlement, have conclusively
21 compromised, settled, discharged, and released the Named Plaintiffs' General Released Claims (in
22 the case of Plaintiffs) and Settlement Class Members' Released Claims (in the case of the Settlement
23 Class Members) against Propark and the Released Parties, and are bound by the provisions of this
24 Agreement;

25 3.7.9 Affirms that, notwithstanding the submission of a timely and proper request
26 for exclusion, Settlement Class Members will still be bound by the settlement and release of the
27 PAGA Claims under the Final Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009)
28

1 as requests for exclusion do not apply to the PAGA Claims, and further affirms that any claim by the
2 LWDA for civil penalties pursuant to PAGA are also extinguished;

3 3.7.10 Declares this Agreement and the Final Approval order and Judgment to be
4 binding on, and have res judicata and preclusive effect as to all pending and future lawsuits or other
5 proceedings: (i) that encompass the Named Plaintiffs' General Released Claims and that are
6 maintained by or on behalf of Plaintiffs and/or their Legally Authorized Representatives, heirs,
7 estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns,
8 and successors, and/or anyone claiming through them or acting or purporting to act for them or on
9 their behalf, and (ii) that encompass the Settlement Class Members' Released Claims and that are
10 maintained by or on behalf of any Settlement Class Member who has not been excluded from the
11 Settlement Class as provided in the Opt-Out List approved by the Court and/or their Legally
12 Authorized Representatives, heirs, estates, trustees, executors, administrators, principals,
13 beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them
14 or acting or purporting to act for them or on their behalf, regardless of whether the Settlement Class
15 Member previously initiated or subsequently initiates individual litigation or other proceedings
16 encompassed by the Settlement Class Members' Released Claims, and even if such Settlement Class
17 Member never received actual notice of the Action or this proposed Settlement;

18 3.7.11 Determines that the Agreement and the Settlement provided for herein, and
19 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or
20 construed as evidence of, a presumption, concession, or an admission by any Party of liability or
21 non-liability or of the certifiability or non-certifiability of a litigation class, or that PAGA
22 representative claims may validly be pursued, or of any misrepresentation or omission in any
23 statement or written document approved or made by any Party; provided, however, that reference
24 may be made to this Agreement and the Settlement provided for herein in such proceedings as may
25 be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

26 3.7.12 Orders that the preliminary approval of the Settlement, certification of the
27 Settlement Class and final approval of the proposed Settlement, and all actions associated with them,
28 are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated

1 or disapproved in whole or in part by the Court, or by any appellate court and/or other court of
2 review, in which event the Agreement and the fact that it was entered into shall not be offered,
3 received, or construed as an admission or as evidence for any purpose, including but not limited to
4 an admission by any Party of liability or non-liability or of any misrepresentation or omission in any
5 statement or written document approved or made by any Party, or of the certifiability of a litigation
6 class or the appropriateness of maintaining a PAGA representative action, as further provided in this
7 Settlement Agreement;

8 3.7.13 Authorizes the Parties, without further approval from the Court, to mutually
9 agree to and adopt such amendments, modifications, and expansions of this Agreement, including all
10 Exhibits hereto, as (i) shall be consistent in all material respects with the Final Approval order and
11 (ii) do not limit the rights of Settlement Class Members; and

12 3.7.14 Contains such other and further provisions consistent with the terms of this
13 Settlement Agreement to which the Parties expressly consent in writing.

14 3.8 At the Final Approval Hearing and as a part of the final approval of this Settlement,
15 Class Counsel will also request approval of the Plan of Allocation set forth in Section V. Any
16 modification to the Plan of Allocation by the Court shall not (i) affect the enforceability of the
17 Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement
18 Agreement, or (iii) impose any obligation on the Defendant or any Released Party to increase the
19 consideration paid in connection with the Settlement.

20 3.9 At the Final Approval Hearing, Class Counsel may also request entry of an Order
21 approving the Class Counsel Award and the Service Awards to the Plaintiffs, which shall be paid
22 exclusively from the Total Settlement Amount and in accordance with the distribution plan
23 described in Section V. In no event shall any Released Party otherwise be obligated to pay for any
24 attorneys' fees and expenses or any Service Award. The disposition of Class Counsel's application
25 for a Class Counsel Award, and for the Service Award, is within the sound discretion of the Court
26 and is not a material term of this Settlement Agreement, and it is not a condition of this Settlement
27 Agreement that such application be granted. Any disapproval or modification of such application by
28 the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the

Parties with the right to terminate the Settlement Agreement, or (iii) increase the consideration Defendant or any Released Party pays in connection with the Settlement. Released Parties shall have no liability to Class Counsel arising from any claim regarding the division of the Class Counsel Award between and among Class Counsel or any other counsel representing Plaintiffs or the Settlement Class Members.

3.10 Within 10 days after entry of Judgment, Class Counsel will provide a copy of the Judgment to the LWDA.

3.11 In no event shall Defendant or any Released Party be obligated to pay Settlement Administrator Expenses beyond those provided for in this Agreement.

IV. SETTLEMENT CONSIDERATION

4.1 The total consideration for the Settlement from Propark is the Total Settlement Amount (\$1,500,000 plus any accrued interest as set forth in this Paragraph). Interest shall accrue on any amount of the Total Settlement Amount not deposited on or before thirty (30) days after the Effective Date, at the rate of 10% simple interest per year, calculated from thirty-one (31) days after the Effective Date, to the date deposited. That interest shall then be added to the remaining balance, but under no circumstances shall increase the balance of principal or accrue interest itself. Interest shall not compound: all payments deposited shall only be attributed to the interest once the principal (\$1,500,000) has been entirely paid down.

4.2 The Total Settlement Amount is an “all in” number that includes, without limitation, all monetary benefits and payments to the Settlement Class, Service Awards, Class Counsel Award, Settlement Administrator Expenses, the PAGA Payment, and all claims for interest, fees, and costs, with the sole exception of the employer-side employment taxes for the wage portion of the settlement. Under no circumstances shall Propark be required to pay anything more than the Total Settlement Amount. In no event shall Propark be liable for making any payments under this Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in this Agreement.

4.3 Plaintiffs and all Settlement Class Members who receive any Individual Settlement Payment from the Total Settlement Amount expressly acknowledge that one half (1/2) of such

1 payments shall be considered non-wages for which an IRS Form 1099 will be issued, if required, and
2 one half (1/2) shall be considered wages, from which applicable withholdings will be withheld, and
3 for which an IRS Form W-2 shall be issued. In the case of Plaintiffs, the Service Awards shall be
4 considered entirely non-wages, and shall be included in Plaintiffs' IRS Form 1099. Plaintiffs and all
5 Settlement Class Members who receive a payment of any kind from the Total Settlement Amount
6 agree to timely pay in full all of the federal, state, and municipal income taxes owed on such
7 payments, with the sole exception of the employer-side employment taxes for the wage portion of
8 the settlement, which shall be paid by Defendant.

9 4.4 The terms of this Agreement relating to the Service Awards and Class Counsel
10 Award were not negotiated by the Parties before full agreement was reached as to all other material
11 terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to the
12 Settlement Class. Propark agrees not to oppose a request for the Service Awards for Plaintiffs, as
13 awarded by the Court, up to a maximum of \$20,000 each. Plaintiffs and Class Counsel agree not to
14 seek any Service Award in excess of the above amount.

15 4.5 Class Counsel agrees not to seek an award from the Court in excess of thirty-five
16 percent (35%) of the Total Settlement Amount in attorneys' fees nor in excess of \$75,000 in costs
17 and expenses. Propark agrees not to oppose a request for attorneys' fees, costs and expenses so long
18 as it does not exceed the amounts set forth above. Any amount awarded as the Class Counsel Award
19 shall be inclusive of any and all amounts due to or claimed by any and all counsel representing
20 Plaintiffs. Released Parties and Settlement Class Members shall have no obligation regarding, or
21 liability for, allocation or payment of the Class Counsel Award. Class Counsel shall file any request
22 for attorneys' fees, costs and expenses and any request for Service Awards no later than 16 court
23 days before the Final Approval Hearing.

24 4.6 The Settlement Administrator shall pay the Class Counsel Award from the Total
25 Settlement Amount by check, payable to "Righetti Glugoski P.C." Class Counsel shall provide the
26 Settlement Administrator notice of receipt of the Class Counsel Award. Released Parties shall have
27 no liability to Class Counsel or any other counsel for Plaintiffs or any Settlement Class Member
28 arising from any claim regarding the division of the Class Counsel Award.

1 **V. FUNDING AND ALLOCATION OF THE SETTLEMENT**

2 5.1 Within thirty (30) calendar days of the Effective Date, Propark shall provide at least
3 Six Hundred Thousand Dollars (\$600,000) of the Total Settlement Amount to the Settlement
4 Administrator. By three hundred ninety-five (395) days of the Effective Date, Propark shall have
5 provided a cumulative amount of at least One Million Two Hundred Thousand Dollars (\$1,200,000)
6 of the Total Settlement Amount. Any and all unpaid remainder of the Total Settlement Amount
7 (\$1,500,000 plus interest as described in Paragraph 4.1) shall be provided to the Settlement
8 Administrator no later than five hundred seventy-seven days (577) after the Effective Date.

9 5.2 Subject to Court approval, the Total Settlement Amount shall be allocated to pay the
10 Settlement Administrator Expenses (not to exceed \$42,500.00); Plaintiffs' Service Awards (not to
11 exceed \$20,000 each for Aaron Sadino and Anthony Johnson); the Class Counsel Award (up to, but
12 not to exceed, 35% of the Total Settlement Amount (\$1,500,000 plus interest according to payment
13 timing as described in Paragraph 4.1)) as ordered by the Court; seventy-five percent (75%) of the
14 PAGA Payment (equaling \$30,000) to the LWDA; and all remaining funds allocated to the
15 Individual Settlement Payments to Settlement Class Members who did not opt out.

16 5.3 Settlement Class Members are not eligible to receive any compensation from the
17 Settlement other than the Individual Settlement Payment(s).

18 5.4 The amount of each Settlement Class Member's Individual Settlement Payment(s)
19 will be distributed from the Total Settlement Amount and calculated in direct proportion to
20 Propark's best estimate of each Settlement Class Member's Pay Periods Worked, as determined
21 from the Class Information provided to the Settlement Administrator by Propark. Class Counsel will
22 be permitted to review and approve the calculation of settlement funds to be distributed, pursuant to
23 the restrictions in Paragraph 5.5.

24 5.5 The Settlement Administrator may provide Class Counsel with a version of the Class
25 List that includes solely a unique identifying number for each individual and their pay periods
26 worked, but not contain any Settlement Class Member's name, social security number, nor last
27 known address nor any other identifying information. In the event a dispute arises with respect to
28 any Settlement Class Member's data in connection with administration of the Settlement, the

1 Settlement Administrator is authorized to provide Class Counsel with the name, social security and
2 last known contact information of the Settlement Class Member who is the subject of the dispute.
3 For the purposes of validating the data, the Settlement Administrator may also reveal to Class
4 Counsel the unique identifying number corresponding to the Named Plaintiffs and each of the four
5 Settlement Class Members who provided declarations in support of Plaintiffs' Motion for Class
6 Certification, but no other Settlement Class Member.

7 5.6 In the event that any checks mailed to Settlement Class Members remain uncashed
8 after the Void Date, then any such funds shall be transmitted by the Settlement Administrator
9 pursuant to governing California law to the California State Controllers' Office Unclaimed Property
10 Fund, to be held there in the name of and for the benefit of such class members under California's
11 escheatment laws.

12 5.7 At no point shall any amount from the Total Settlement Amount revert back to
13 Defendant.

14 5.8 The Settlement Administrator shall issue the Individual Settlement Payments from the
15 Total Settlement Amount to each Settlement Class Member who does not opt out. One-half of each
16 Individual Settlement Payment shall be reported by the Settlement Administrator to the applicable
17 governmental authorities on IRS Form 1099s, if required, and one half on IRS Form W-2s. The
18 portions allocated to Plaintiffs' Service Awards shall be reported on IRS Form 1099s. The
19 Settlement Administrator shall be responsible for issuing respective copies of IRS Form 1099s and
20 W-2s for the Plaintiffs and Settlement Class Members who received and cashed their respective
21 Individual Settlement Payments.

22 **VI. CLASS NOTICE & CLAIM PROCEDURES**

23 6.1 No more than fifteen (15) business days after entry of the Preliminary Approval
24 Order, Defendant shall provide the Settlement Administrator with the Class Information for purposes
25 of sending the Class Notice to Settlement Class Members.

26 6.2 The Class Notice will include a statement to each Settlement Class Member
27 containing their Pay Periods Worked being used to calculate the amount of their Settlement Payment
28 as described in Paragraph 5.4, and inform Settlement Class Members of their right to request

1 exclusion from the Settlement, of their right to object to the Settlement, of their right to dispute the
2 information upon which their share of the Settlement will be calculated, and the claims to be
3 released.

4 6.3 As set forth in the Class Notice, Settlement Class Members will be provided fifteen
5 (15) days (postmark deadline) after mailing of the Class Notice and accompanying statement to
6 disagree with Propark's calculation of their total Pay Periods Worked by providing documentation to
7 the Settlement Administrator. Settlement Class Members who wish to dispute the number of their
8 total Pay Periods must notify the Settlement Administrator in writing and must include their full
9 name, current address, the last four digits of their social security number, the dates they contend they
10 were employed by Propark, and the number of pay periods they contend they worked for Propark
11 during the Settlement Period along with any documentation to support their dispute. The Settlement
12 Administrator shall review any documentation submitted by a Settlement Class Member and consult
13 with the Parties to determine whether an adjustment is warranted. There will be a presumption that
14 Propark's records are correct, absent evidence produced by a Settlement Class Member to the
15 contrary. The Settlement Administrator's determination of the amount of any Settlement Class
16 Member's Pay Periods Worked shall be binding upon the Settlement Class Member and the Parties,
17 and a Settlement Class Member's Individual Settlement Payment will be calculated according to the
18 Settlement Administrator's determination.

19 6.4 No more than forty-five (45) days after entry of the Preliminary Approval Order,
20 provided Defendant timely complied with its obligation in Paragraph 6.1, the Settlement
21 Administrator shall send a copy of the Class Notice by U.S. mail to each potential Settlement Class
22 Member (the Notice Date).

23 6.5 If any Class Notice sent via U.S. mail to any potential Settlement Class Member is
24 returned to the Settlement Administrator with a forwarding address, the Settlement Administrator
25 shall forward the postal mailing to that address within three (3) business days. If the Settlement
26 Administrator is not provided a forwarding address, the Settlement Administrator shall make a good-
27 faith search of an appropriate database, as described in Paragraph 6.6, and postal mailings shall be
28 resent, re-mailed, and/or forwarded to any new postal mail address obtained through the methods

1 described in Paragraph 6.6 within three (3) business days. The Settlement Administrator shall
2 attempt to re-mail all returned mail and shall maintain a log detailing the instances Class Notices are
3 returned as undeliverable.

4 6.6 Before any mailing to an address besides that listed in the Class Information, the
5 Settlement Administrator shall make a good-faith attempt to obtain the most-current names and
6 postal mail addresses for all potential Settlement Class Members to receive such postal mail,
7 including (1) cross-checking the names and/or postal mail addresses it received from Propark, (2)
8 reviewing the addresses with the National Change of Address Database and (3) performing further
9 reasonable searches (e.g., through Lexis/Nexis) for more-current names and/or postal mail addresses
10 for Settlement Class Members. All Settlement Class Members' names and postal mail addresses
11 obtained through these sources shall be protected as confidential and not used for purposes other
12 than the notice and administration of this Settlement. The address determined by the Settlement
13 Administrator as the current mailing address through this process shall be presumed to be the best
14 mailing address for the applicable Settlement Class Member.

15 6.7 The Parties agree that the procedures set forth in this Section constitute reasonable
16 and the best practicable notice under the circumstances and an appropriate and sufficient effort to
17 locate current addresses for Settlement Class Members such that no additional efforts to do so shall
18 be required.

19 6.8 At least twenty-one (21) days before the Final Approval Hearing, the Settlement
20 Administrator shall prepare a declaration of due diligence and proof of dissemination with regard to
21 the mailing of the Class Notice, and any attempts by the Settlement Administrator to locate
22 Settlement Class Members, its receipt of valid requests for exclusion, and its inability to deliver the
23 Class Notice to Settlement Class Members due to invalid addresses ("Due Diligence Declaration"),
24 to Class Counsel and counsel for Propark for presentation to the Court. Class Counsel shall be
25 responsible for filing the Due Diligence Declaration with the Court.

26 6.9 If any individual whose name does not appear in the Class Information that Propark
27 provides the Settlement Administrator (and who has not previously opted out of the Settlement
28 Class), believes that they are a Settlement Class Member, they shall have the opportunity to dispute

1 their exclusion from the Settlement Class, prior to the Void Date. If an individual believes they are a
2 Settlement Class Member, they must notify the Settlement Administrator within a reasonable
3 amount of time after the Notice Date, but under no circumstances more than one year after the
4 Effective Date. The Parties will meet and confer regarding any such individuals in an attempt to
5 reach an agreement as to whether any such individual should be regarded as a Settlement Class
6 Member. If the Parties so agree, the Settlement Administrator will provide a Class Notice to the
7 individual, and treat the individual as a Settlement Class Member for all other purposes. Such an
8 individual will have all of the same rights as any other Settlement Class Member under this
9 Agreement. In the event that the disbursement of the First Individual Settlement Payments has
10 begun (in accordance with this Settlement Agreement) at the time that the Parties agree that such
11 individual should be regarded as a Settlement Class Member, and such individual has not exercised
12 their right to opt out of the Settlement, the First Individual Settlement Payment to such individual
13 shall be combined with the Second Individual Settlement Payment and disbursed at the same time as
14 the Second Individual Settlement Payments from funds remitted back to the Total Settlement
15 Amount (*i.e.* from settlement checks that remain uncashed beyond the Void Date).

16 **VII. PROCEDURES FOR REQUESTS FOR EXCLUSION**

17 7.1 Settlement Class Members (with the exception of Plaintiffs) may opt out of the
18 Settlement. Those who wish to exclude themselves (or “opt out”) from the Settlement Class must
19 submit timely, written requests for exclusion, using the Exclusion Form attached hereto as Exhibit
20 D. To be effective, such the Form must include the Settlement Class Member’s name, address, and
21 telephone number; and the signature of the Settlement Class Member. The request must be mailed
22 to the Settlement Administrator at the address provided in the Class Notice and must be postmarked
23 no later than the Exclusion/Written Objection Deadline. The date of the postmark shall be the
24 exclusive means used to determine whether a request for exclusion has been timely submitted.
25 Requests for exclusion must be exercised individually by the Settlement Class Member. Attempted
26 collective group, class, or subclass requests for exclusions shall be ineffective and disregarded by the
27 Settlement Administrator.
28

1 7.2 The Settlement Administrator shall promptly log each request for exclusion that it
2 receives and provide copies of the log and all such requests for exclusion to Class Counsel and
3 counsel for Propark, as requested.

4 7.3 The Settlement Administrator shall prepare a list of all persons who timely and
5 properly requested exclusion from the Settlement Class (the Opt-Out List) and shall, before the Final
6 Approval Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

7 7.4 All Settlement Class Members who are not included in the Opt-Out List approved by
8 the Court shall be bound by this Agreement, and all their claims shall be released as provided for
9 herein, even if they never received actual notice of the Action or this proposed Settlement.

10 7.5 The Settlement Administrator, in its sole discretion, shall determine whether a request
11 for exclusion was timely and properly submitted. The Settlement Administrator's decision shall be
12 final, binding, and nonappealable.

13 7.6 Plaintiffs agree not to request exclusion from the Settlement Class.

14 7.7 Settlement Class Members may object to or opt out of the Settlement, but may not do
15 both. Any Settlement Class Member who submits a timely and proper request for exclusion may not
16 file an objection to the Settlement or receive a Settlement Payment, and shall be deemed to have
17 waived any rights or benefits under the Settlement Agreement. If a Settlement Class Member files
18 both an objection and a valid and timely request for exclusion, the request for exclusion will override
19 the objection, and the objection shall therefore be ignored.

20 7.8 Notwithstanding the submission of a timely request for exclusion, Class Members
21 will still be bound by the settlement and release of the PAGA Claims or remedies under the Final
22 Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for exclusion do
23 not apply to the PAGA Claims, and will not be effective to preclude the release of the PAGA
24 Claims.

25 **VIII. PROCEDURES FOR OBJECTIONS**

26 8.1 Any Settlement Class Member that wishes to object to the fairness, reasonableness, or
27 adequacy of this Agreement or the proposed Settlement must (1) provide to the Settlement
28

1 Administrator (who shall forward it to Class Counsel and counsel for Propark), a timely Objection
2 Form, or (2) appear in person at the Final Approval Hearing to make an objection.

3 8.2 To be timely, an Objection Form must be mailed to the Settlement Administrator, and
4 postmarked no later than the Exclusion/Written Objection Deadline. The date of the postmark on the
5 return-mailing envelope shall be the exclusive means used to determine whether objection has been
6 timely submitted.

7 8.3 An Objection Form must contain at least the following: (i) the objector's full name,
8 address, telephone, and signature; (ii) a statement of the specific legal and factual basis for each
9 objection argument; and (iii) a statement whether the objecting person or entity intends to appear at
10 the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement
11 identifying that counsel by name, bar number, address, and telephone number. All objections shall
12 be signed by the objecting Settlement Class Member, even if the Settlement Class Member is
13 represented by counsel.

14 8.4 The right to object to the proposed Settlement must be exercised individually by a
15 Settlement Class Member. Attempted collective, group, class, or subclass objections shall be
16 ineffective and disregarded.

17 8.5 Any Settlement Class Member who does not submit a timely written objection in
18 accordance with this Section shall maintain the right to voice any objections at the Final Approval
19 Hearing. Any Settlement Class Member who does not file a timely written objection in accordance
20 with this Section, nor objects at the Final Approval Hearing shall be forever barred from making any
21 objection to the proposed Settlement, the Plan of Allocation, the Class Counsel Award and the
22 Service Award. Settlement Class Members who object to the proposed Settlement shall remain
23 Settlement Class Members, and shall be deemed to have voluntarily waived their right to pursue an
24 independent remedy against Propark and the Released Parties.

25 8.6 To the extent any Settlement Class Member objects to the proposed Settlement, and
26 such objection is overruled in whole or in part, such Settlement Class Member will be forever bound
27 by the Final Approval order and Judgment.
28

1 8.7 It shall be Class Counsel's sole responsibility to respond to any objections made with
2 respect to any application for the Class Counsel Award and Service Award.

3 **IX. RELEASES**

4 9.1 The Released Claims against each and all of the Released Parties shall be released
5 (without an award of costs to any party other than as provided in this Agreement) upon entry of the
6 Final Approval order and Judgment.

7 9.2 As of the Final Approval Date, Plaintiffs, and all Settlement Class Members who
8 have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and
9 on behalf of their Legally Authorized Representatives, heirs, estates, trustees, executors,
10 administrators, representatives, agents, successors, and assigns, and anyone claiming through them
11 or acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and
12 covenant not to sue each and all of the Released Parties from each and all of the Named Plaintiffs'
13 General Released Claims (in the case of the Plaintiffs) and the Settlement Class Members' Released
14 Claims (in the case of the Settlement Class Members who have not been excluded from the
15 Settlement Class as provided in the Opt-Out List), and by operation of the Final Judgment shall have
16 fully and finally released, relinquished, and discharged all such claims against each and all of the
17 Released Parties; and they further agree that they shall not now or hereafter initiate, maintain, or
18 assert any Named Plaintiffs' General Released Claims (in the case of Plaintiffs) and any Settlement
19 Class Members' Released Claims (in the case of the Settlement Class Members who have not been
20 excluded from the Settlement Class as provided in the Opt-Out List), against the Released Parties in
21 any other court action or before any administrative body, tribunal, arbitration panel, or other
22 adjudicating body. Without in any way limiting the scope of the releases described in Paragraphs
23 2.15, 2.25, and 2.34, as well as the remainder of this Section, this release covers, without limitation,
24 any and all claims for attorneys' fees, costs or disbursements incurred by Class Counsel or any other
25 counsel representing Plaintiffs or Settlement Class Members, or by Plaintiffs or Settlement Class
26 Members, or any of them, in connection with or related in any manner to the Action, the Settlement
27 of the Action, the administration of such Settlement, and/or the Released Claims, except to the extent
28 otherwise specified in the Agreement.

1 9.3 As of the Final Approval Date, Plaintiffs and all Settlement Class Members who have
2 not been excluded from the Settlement Class as provided in the Opt-Out List shall be permanently
3 barred and enjoined from initiating, asserting, or prosecuting against the Released Parties in any
4 federal or state court or tribunal any and all Named Plaintiffs' General Released Claims (in the case
5 of Plaintiffs) and any Settlement Class Members' Released Claims (in the case of the Settlement
6 Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out
7 List),) arising during the Settlement Class Period, as further provided in Paragraphs 2.15, 2.25, and
8 2.34, as well as this Section.

9 9.4 Plaintiffs expressly acknowledge that they are familiar with principles of law such as
10 Section 1542 of the California Civil Code, which provides:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
12 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
13 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
14 **RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE**
15 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
16 **DEBTOR OR RELEASED PARTY.**

17 9.5 With respect to the Named Plaintiffs' General Released Claims, as described in
18 Paragraph 2.15, Plaintiffs shall be deemed to have expressly, knowingly, and voluntarily waived and
19 relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may
20 otherwise have had pursuant to Section 1542 of the California Civil Code and all similar federal or
21 state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein. In
22 connection with the release, Plaintiffs acknowledge that they are aware that they may hereafter
23 discover claims presently unknown and unsuspected or facts in addition to or different from those
24 which they now know or believe to be true with respect to matters released herein.

25 9.6 Plaintiffs further acknowledge, agree, and understand that: (i) each has read and
26 understands the terms of this Agreement; (ii) each has been advised in writing to consult with an
27 attorney before executing this Agreement; and (iii) each has obtained and considered such legal
28 counsel as they deem necessary.

 9.7 Subject to Court approval, the Plaintiffs, and all Settlement Class Members to the
extent they have not been excluded from the Settlement Class as provided in the Opt-Out List, shall

1 be bound by this Settlement Agreement, and all of their claims released, even if they never received
2 actual notice of the Action or this Settlement

3 **X. ADMINISTRATION OF THE SETTLEMENT FUND**

4 10.1 The Settlement Administrator or its authorized agents in consultation with the Parties
5 and subject to the supervision, direction, and approval of the Court, shall calculate the allocation of
6 and oversee the distribution of the Total Settlement Amount.

7 10.2 The Total Settlement Amount shall be applied as follows:

8 10.2.1 To pay the total costs, expenses, and fees of the Settlement Administrator
9 incurred in connection with providing Class Notice to potential Settlement Class Members, and the
10 management and distribution of the Total Settlement Amount to Settlement Class Members, not to
11 exceed \$42,500.00;

12 10.2.2 Subject to the approval and further order(s) of the Court, to pay Plaintiffs'
13 Service Awards based on contributions and time expended assisting in the litigation, up to a
14 maximum of \$20,000 each for Aaron Sadino and Anthony Johnson;

15 10.2.3 Subject to the approval and further order(s) of the Court, to pay the Class
16 Counsel Award (up to, but not to exceed, 35% of the Total Settlement Amount (\$1,500,000 plus
17 interest according to payment timing as described in Paragraph 4.1) and reimbursement of litigation
18 costs not to exceed \$75,000 as ordered by the Court;

19 10.2.4 Subject to the approval and further order(s) of the Court, to distribute 75% of
20 the PAGA Payment to the LWDA and 25% of the PAGA Payment to the Settlement Class Members
21 as part of each Settlement Class Members' Individual Settlement Payment(s), with the amount to be
22 distributed to each Settlement Class Member determined proportionately to their Individual
23 Settlement Payment(s);

24 10.2.5 After the Effective Date and subject to the approval and further order(s) of the
25 Court, to distribute the Individual Settlement Payments from the Total Settlement Amount for the
26 benefit of the Settlement Class pursuant to Settlement Agreement, or as otherwise ordered by the
27 Court.
28

1 10.3 Within sixty (60) days of the Effective Date, the first installment of the Class Counsel
2 Award (One Hundred Seventy Five Thousand Dollars (\$175,000)), the entirety of Class Counsel's
3 litigation costs as approved by the Court, and the Service Awards approved by the Court (up to
4 Twenty Thousand (\$20,000) each for Aaron Sadino and Anthony Johnson), and the Settlement
5 Administrator Expenses (up to \$42,500), shall be made by the Settlement Administrator from the
6 amount provided to it by Propark on or before thirty (30) days after the Effective Date.

7 10.4 The Settlement Administrator shall use reasonable efforts to disburse the First
8 Individual Settlement Payments and the PAGA Payment to Settlement Class Members who did not
9 opt out within sixty (60) days after the Effective Date, pursuant to the Plan of Allocation.

10 10.5 Between three hundred and ninety-six (396) and four hundred and twenty-five (425)
11 days after the Effective Date, the Settlement Administrator shall use reasonable efforts to (1)
12 proportionately disburse the Second Individual Settlement Payments to those Settlement Class
13 Members who cashed their check from their First Individual Settlement Payment, and (2) pay the
14 second installment of the Class Counsel Award (One Hundred Seventy Five Thousand Dollars
15 (\$175,000)).

16 10.6 Between five hundred and seventy-eight (578) and six hundred and seven (607) days
17 after the Effective Date, the Settlement Administrator shall use reasonable efforts to (1)
18 proportionately disburse the Third Individual Settlement Payments to those Settlement Class
19 Members who cashed their check from their Second Individual Settlement Payment, and (2) pay the
20 third and final installment of the Class Counsel Award, which shall be the amount necessary to
21 provide Class Counsel with thirty-five percent (35%) of the Total Settlement Amount.

22 10.7 If any settlement checks are returned as undeliverable, the Settlement Administrator
23 shall make at least one attempt to re-mail the settlement check if (1) the undeliverable mail has a
24 forwarding address; or (2) the Settlement Administrator is able to locate a more current address
25 through skip tracing. If any portion of the Total Settlement Amount is not successfully distributed to
26 Settlement Class Members (*i.e.* checks are not cashed or checks are returned as undeliverable), then
27 after the Void Date, the Settlement Administrator shall void the check and hold the unclaimed
28 amount, which shall be returned to the Total Settlement Amount and incorporated into the following

1 Individual Settlement Payment disbursement. After the Void Date of the Third Individual
2 Settlement Payment checks has passed, the Settlement Administrator shall direct such unclaimed
3 funds pursuant to governing California law to the California State Controllers' Office Unclaimed
4 Property Fund, to be held there in the name of and for the benefit of such class members under
5 California's escheatment laws.

6 10.8 Settlement Class Members who are not on the Opt-Out List approved by the Court
7 shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained
8 herein, and the Judgment with respect to all Settlement Class Members' Released Claims, regardless
9 of whether they received notice or obtained any distribution from the Total Settlement Amount.

10 10.9 Payment from the Total Settlement Amount made pursuant to and in the manner set
11 forth herein shall be deemed conclusive of compliance with this Settlement Agreement as to all
12 Settlement Class Members.

13 10.10 No Settlement Class Member shall have any claim against the Plaintiffs, Class
14 Counsel, or the Settlement Administrator based on distributions made substantially in accordance
15 with this Settlement Agreement and/or orders of the Court. No Settlement Class Member shall have
16 any claim against any Released Party or its counsel relating to distributions made under this
17 Settlement.

18 **XI. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**
19 **SETTLEMENT AGREEMENT**

20 11.1 If the Court does not approve the Settlement as set forth in this Settlement
21 Agreement, or does not enter the Final Approval order and Judgment on the terms described herein,
22 or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of
23 Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not
24 otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless
25 all Parties, in their sole discretion no later than thirty (30) days from the date such ruling becomes
26 Final, provide written notice to all other Parties hereto of their intent to proceed with the Settlement
27 under the terms of the Judgment as it may be modified by the Court or any appellate court.
28

11.2 No later than ten (10) business days after the Exclusion/Written Objection Deadline, the Settlement Administrator shall provide to Class Counsel and counsel for Propark the Opt-Out List together with copies of the opt-out requests. Notwithstanding any other provision of this Settlement Agreement, if more than ten percent (10%) of Settlement Class Members exercise their right to opt out of the Settlement, Defendant at its sole and absolute discretion may elect to rescind and revoke the entire Settlement Agreement by sending written notice that it revokes the Settlement pursuant to this paragraph to Class Counsel within ten (10) business days following receipt of the Opt-Out List. In the event that: (i) the Settlement is not approved, is overturned, or is modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective for any reason, including but not limited to Propark failing to make the first payment required by the Settlement Agreement, then: (a) the Parties stipulate and agree the Settlement, this Agreement, the Class Information, the Opt-Out List, and all documents exchanged and filed in connection with the Settlement shall be treated as privileged mediation communications under Cal. Evid. Code §§ 1115 *et seq.*; (b) the Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or enforceable, with the exception of this paragraph, which shall remain effective and enforceable; (c) the parties shall be deemed to have reverted *nunc pro tunc* to their respective status prior to execution of this Agreement, including with respect to any Court-imposed deadlines; (d) all Orders entered in connection with the Settlement, including the certification of the Settlement Class, shall be vacated without prejudice to any party's position on the issue of class certification, the issue of amending the complaint, or any other issue, in the Action or any other action, and the parties shall be restored to their litigation positions existing on the date of execution of this Agreement; and (e) the parties shall proceed in all respects as if the Settlement Agreement and related documentation and orders had not been executed, and without prejudice in any way from the negotiation or fact of the Settlement or the terms of the Settlement Agreement. The Settlement Agreement, the Settlement, all documents, orders, and evidence relating to the Settlement, the fact of their existence, any of their terms, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement, the Settlement, their existence, or their terms, any negotiations, proceedings,

1 acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement or
2 the Settlement shall not be admissible in any proceeding, and shall not be offered, received, or
3 construed as evidence of a presumption, concession, or an admission of liability, of the certifiability
4 of a litigation class, or of any misrepresentation or omission in any statement or written document
5 approved or made, or otherwise used by any person for any purpose whatsoever, in any trial of the
6 Action or any other action or proceedings. Plaintiffs, Class Counsel and the Settlement
7 Administrator shall return to counsel for Propark all copies of Class Information and Opt-Out Lists
8 and shall not use or disclose the Class Information or Opt-Out List for any purpose or in any
9 proceeding.

10 11.3 Propark does not agree or consent to certification of the Settlement Class for any
11 purpose other than to effectuate the Settlement of the Action. Further, Propark does not agree or
12 consent that the Action could properly be maintained as a PAGA representative action for any
13 purpose other than to effectuate the Settlement of the Action. If this Settlement Agreement is
14 terminated pursuant to its terms, or the Effective Date for any reason does not occur, all Orders
15 certifying the Settlement Class or establishing the Action as a PAGA representative action for
16 purposes of effecting this Settlement Agreement, and all preliminary and/or final findings regarding
17 the Settlement Class certification order, shall be automatically vacated upon notice to the Court, the
18 Action shall proceed as though the Settlement Class had never been certified pursuant to this
19 Settlement Agreement, had never been maintained as a PAGA representative action, and such
20 findings had never been made, and the Action shall revert nunc pro tunc to the procedural status quo
21 as of the date and time immediately before the execution of the Settlement Agreement, in accordance
22 with this Settlement Agreement.

23 **XII. ADDITIONAL PROVISIONS**

24 12.1 All of the Exhibits to this Agreement are an integral part of the Settlement and are
25 incorporated by reference as though fully set forth herein.

26 12.2 Plaintiffs and Class Counsel acknowledge that an adequate factual record has been
27 established that supports the Settlement and hereby waive any right to conduct further discovery to
28 assess or confirm the Settlement.

1 12.3 Unless otherwise noted, all references to “days” in this Agreement shall be to
2 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or
3 California court legal holiday, such date or deadline shall be on the first business day thereafter.

4 12.4 This Agreement constitutes the full and complete agreement of the Parties hereto, and
5 supersedes all prior negotiations and agreements, whether oral, written or otherwise, and may be
6 amended or modified only by a written instrument signed by counsel for all Parties or the Parties’
7 successors-in-interest.

8 12.5 The Parties reserve the right, subject to the Court’s approval, to make any reasonable
9 extensions of time that might be necessary to carry out any of the provisions of this Agreement.
10 Such extensions must be in writing to be enforceable.

11 12.6 The Settlement Agreement, the Settlement, the fact of the Settlement’s existence, any
12 of terms of the Settlement Agreement, any press release or other statement or report by the Parties or
13 by others concerning the Settlement Agreement or the Settlement, and any negotiations,
14 proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement
15 Agreement or the Settlement may not be used as evidence of any waiver of, unenforceability of, or
16 as a defense to any Propark arbitration agreement.

17 12.7 The Released Parties shall have the right to file the Settlement Agreement, the Final
18 Approval order and Judgment, and any other documents or evidence relating to the Settlement in any
19 action that may be brought against them in order to support a defense or counterclaim based on
20 principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction,
21 or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

22 12.8 The Parties to the Settlement Agreement agree that the Total Settlement Amount and
23 the other terms of the Settlement were negotiated at arm’s length and in good faith by the Parties,
24 resulted from an arm’s-length mediation session facilitated by Louis Marlin, Esq., and subsequent
25 discussions between the Parties, and reflect a settlement that was reached voluntarily based upon
26 adequate information and sufficient discovery and after consultation with experienced legal counsel.

27 12.9 Plaintiffs and Class Counsel have concluded that the Settlement set forth herein
28 constitutes a fair, reasonable, and adequate resolution of the claims that Plaintiffs asserted against

1 defendants, including the claims on behalf of the Settlement Class, and that it promotes the best
2 interests of the Settlement Class.

3 12.10 To the extent permitted by law, all agreements made and orders entered during the
4 course of the Action relating to the confidentiality of information shall survive this Settlement
5 Agreement.

6 12.11 The Parties agree that Plaintiffs and Class Counsel are not required to return any
7 documents produced by Propark until the final resolution of the Action. Within sixty (60) days
8 following the Effective Date, Class Counsel shall return to Propark all documents produced in the
9 Action, or confirm in writing that all such documents have been destroyed.

10 12.12 The waiver by one Party of any breach of this Settlement Agreement by any other
11 Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement
12 Agreement.

13 12.13 This Settlement Agreement constitutes the entire agreement among the Parties, and
14 no representations, warranties, or inducements have been made to any Party concerning this
15 Settlement Agreement, other than the representations, warranties, and covenants contained and
16 memorialized in this Settlement Agreement. In the event that the Addendum and therefore the
17 Exhibits are never finalized, the Parties will not be relieved in any way of their duties, obligations,
18 and burden under the Settlement Agreement. The Settlement Agreement shall bind the Parties upon
19 execution, regardless of whether the Addendum has also been executed.

20 12.14 This Settlement Agreement may be executed in one or more counterparts. All
21 executed counterparts and copies thereof shall be deemed to be one and the same instrument.

22 12.15 The Parties hereto and their respective counsel agree that they will use their best
23 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

24 12.16 This Settlement Agreement shall be binding upon and shall inure to the benefit of the
25 successors and assigns of the Parties hereto, including any and all Released Parties and any
26 corporation, partnership, or other entity into or with which any Released Party hereto may merge,
27 consolidate, or reorganize.
28

1 12.17 This Settlement Agreement shall not be construed more strictly against one Party than
2 another merely because of the fact that it may have been prepared by counsel for one of the Parties,
3 it being recognized that because of the arm's-length negotiations resulting in the Settlement
4 Agreement, all Parties hereto have contributed substantially and materially to the preparation of the
5 Settlement Agreement.

6 12.18 Except where this Settlement Agreement itself provides otherwise, all terms,
7 conditions, and Exhibits are material and necessary to this Settlement Agreement and have been
8 relied upon by the Parties in entering into this Settlement Agreement.

9 12.19 This Settlement Agreement shall be governed by California law. Any action based on
10 this Settlement Agreement, or to enforce any of its terms, shall be venued in San Francisco Superior
11 Court, which shall retain jurisdiction over all such disputes. All Parties to this Settlement
12 Agreement shall be subject to the jurisdiction of San Francisco County Superior Court for all
13 purposes related to this Settlement Agreement. This paragraph relates solely to the law governing
14 this Settlement Agreement and any action based thereon, and nothing in this paragraph shall be
15 construed as an admission or finding that California law applies to the Released Claims of any
16 Plaintiff or Settlement Class Members who reside outside of the state.

17 12.20 The Court shall retain continuing and exclusive jurisdiction over the Parties to this
18 Settlement Agreement for the purpose of the administration and enforcement of this Settlement
19 Agreement.

20 12.21 The headings used in this Settlement Agreement are for the convenience of the reader
21 only, and shall not affect the meaning or interpretation of this Settlement Agreement.

22 12.22 In construing this Settlement Agreement, the use of the singular includes the plural
23 (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

24 12.23 Each Party to this Settlement Agreement warrants that he, she, they, or it is acting
25 upon independent judgment and upon the advice of counsel, and not in reliance upon any warranty
26 or representation, express or implied, of any nature of any kind by any other Party, other than the
27 warranties and representations expressly made in this Settlement Agreement.
28

1 12.24 Each counsel signing this Settlement Agreement on behalf of their clients who are
2 unable to sign the Agreement on the date that it is executed by other Parties represents that such
3 counsel is fully authorized to sign this Settlement Agreement on behalf of their clients; provided,
4 however, that all Parties who have not executed this Agreement on the date that it is executed by the
5 other Parties shall promptly thereafter execute this Agreement and in any event no later than one (1)
6 week after the Agreement has been executed by counsel.

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16 **[SIGNATURES ON FOLLOWING PAGE]**
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1 Dated: 2/26/2021, 2021

DocuSigned by:
By: Aaron Sadino
AARON SADINO
PLAINTIFF

4 Dated: 2/25/2021, 2021

DocuSigned by:
By: Anthony Johnson
ANTHONY JOHNSON
PLAINTIFF

8 Dated: _____, 2021

By: _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK AMERICA WEST, LLC
DEFENDANT

12 Dated: _____, 2021

By: _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK INC.
DEFENDANT

17 Dated: 2/25/2021, 2021

DocuSigned by:
By: Michael Righetti
MATTHEW RIGHETTI
MICHAEL C. RIGHETTI
RIGHETTI GLUGOSKI P.C.

Attorneys for Plaintiffs

21 APPROVED ONLY AS TO FORM, WITHOUT IMPOSING ANY OBLIGATIONS ON DEFENDANTS' COUNSEL,
AND NOT INTENDED AS AN EXPRESS OR IMPLIED ACCEPTANCE OF ANY TERMS HEREIN:

23 Dated: _____, 2021

By: _____
MEL M.C. COLE
LITTLER MENDELSON, P.C.

Attorneys for Defendants Propark America
West, LLC and Propark Inc.

28 4840-9679-1517.3 065440.1003

1 Dated: _____, 2021

By: _____
AARON SADINO
PLAINTIFF

2
3
4 Dated: _____, 2021

By: _____
ANTHONY JOHNSON
PLAINTIFF

5
6
7
8 Dated: March 1, 2021

By:  _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK AMERICA WEST, LLC
DEFENDANT

9
10
11
12 Dated: March 1, 2021

By:  _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK INC.
DEFENDANT

13
14
15
16
17 Dated: _____, 2021

By: _____
MATTHEW RIGHETTI
MICHAEL C. RIGHETTI
RIGHETTI GLUGOSKI P.C.

Attorneys for Plaintiffs

18
19
20
21 APPROVED ONLY AS TO FORM, WITHOUT IMPOSING ANY OBLIGATIONS ON DEFENDANTS' COUNSEL,
AND NOT INTENDED AS AN EXPRESS OR IMPLIED ACCEPTANCE OF ANY TERMS HEREIN:

22
23 Dated: _____, 2021

By: _____
MEL M.C. COLE
LITTLER MENDELSON, P.C.

Attorneys for Defendants Propark America
West, LLC and Propark Inc.

24
25
26
27 4840-9679-1517.3 065440.1003

1 Dated: _____, 2021

By: _____
AARON SADINO
PLAINTIFF

2
3
4 Dated: _____, 2021

By: _____
ANTHONY JOHNSON
PLAINTIFF

5
6
7
8 Dated: _____, 2021

By: _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK AMERICA WEST, LLC
DEFENDANT

9
10
11
12 Dated: _____, 2021

By: _____
PATRICK BOESHANS
CHIEF ADMINISTRATIVE OFFICER
FOR PROPARK INC.
DEFENDANT

13
14
15
16
17 Dated: _____, 2021

By: _____
MATTHEW RIGHETTI
MICHAEL C. RIGHETTI
RIGHETTI GLUGOSKI P.C.

Attorneys for Plaintiffs

18
19
20
21 APPROVED ONLY AS TO FORM, WITHOUT IMPOSING ANY OBLIGATIONS ON DEFENDANTS' COUNSEL,
AND NOT INTENDED AS AN EXPRESS OR IMPLIED ACCEPTANCE OF ANY TERMS HEREIN:

22
23 Dated: March 1, 2021

By:  _____
MEL M.C. COLE
LITTLER MENDELSON, P.C.

Attorneys for Defendants Propark America
West, LLC and Propark Inc.

24
25
26
27 4840-9679-1517.3 065440.1003

EXHIBIT 2

Andrew J. Prizler v. Charter Communications, Inc
Rate Sheet

<u>TK ID</u>	<u>Timekeeper</u>	<u>Title</u>	<u>2018 Standard Rate</u>	<u>2018 Billing Rate</u>	<u>2019 Standard Rate</u>	<u>2019 Billing Rate</u>
02943	Allen, Margaret H.	Partner	950	831	1,000	850
60970	Fischer, Max C.	Partner	925	809	975	829
43800	Lazerson, Wendy M.	Partner	950	831	975	829
12149	Roberts, Katherine A.	Partner	875	766	925	786
13696	Chao, Wesley	Associate	495	433	540	459
11257	Gonzalez, Anahi	Associate	495	433	540	459
14968	Hong, Alison H.	Associate	835	731	890	757
03043	Limbrick, Tiffanie N.	Associate	785	687	870	740
03170	Mackay, Aimee G.	Associate	860	753	905	769
10517	McDonough, Megan	Associate	495	433	635	540
19461	Miner, Katharine M.	Associate	495	433	635	540
03084	Wyson, Natali	Associate	785	687	870	740
95711	Brown, Denise D.	Paralegal	390	341	415	353
17840	L'Hoste, April K.	Paralegal	350	306	370	315
84271	O'Connell, Kathleen M.	Paralegal	360	315	380	323

EXHIBIT 3

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV-13-03865-MWF (JEMx)

Date: July 10, 2017

Title: Marine Bargas -v.- Rite Aid Corporation, et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendant:
None Present

Proceedings (In Chambers): ORDER RE MOTION FOR ATTORNEYS' FEES [153]

Before the Court is Plaintiff Marine Bargas' Motion for Attorneys' Fees and Related Nontaxable Expenses (the "Motion"), filed April 10, 2017. (Docket No. 153). On May 22, 2017, Defendant Rite Aid Corporation ("Rite Aid") filed its Opposition. (Docket No. 156). On May 29, 2017, Plaintiff filed her Reply. (Docket No. 157). The Court reviewed and considered the papers filed on the Motion and held a hearing on **June 12, 2017**.

The Motion is **GRANTED *in part***. The Court reviewed Plaintiff's proposed lodestar and found it to be well-supported. However, the Court concludes that the lodestar amount is excessive in light of Plaintiff's limited success at trial. Therefore, the Court reduces the requested fee award by 23% to account for what would otherwise be a windfall to counsel.

The parties agreed in their briefing that the requested nontaxable costs should be reduced. Accordingly, Plaintiff is awarded **\$309,586.20** in attorneys' fees, and **\$12,408.64** in nontaxable costs.

I. BACKGROUND

On March 22, 2013, Plaintiff filed an action in the Los Angeles County Superior Court alleging violations of the California Labor Code and Business & Professions Code. (Notice of Removal, Ex. A at 1 (Docket No. 1)). Plaintiff was a former Store

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Manager for Rite Aid, who had been classified as an exempt employee and paid on a salary basis. (Amended Findings of Fact and Conclusions of Law (“FFCL”) at 1 (Docket No. 148)). Plaintiff claimed that she had been misclassified, and was owed overtime wages and wages for missed meal and rest breaks. (*Id.*).

On May 30, 2013, Rite Aid removed the action to this Court. (Notice of Removal at 1). After two stays and extensive litigation, the action was tried before the Court sitting without a jury November 1 through November 10, 2016. (FFCL at 1).

On March 28, 2017, almost four years to the day after Plaintiff first filed her Complaint, the Court reached its verdict. (FFCL at 1). The Court concluded that, for the most part, Plaintiff had been properly classified as a salaried employee under the executive exemption. (*Id.* at 31). However, the Court awarded Plaintiff \$8,349.56 in unpaid overtime wages for a handful of weeks in which she did not qualify for the executive exemption, plus \$3,875.03 in prejudgment interest. (Judgment at 2 (Docket No. 147)). The Court additionally awarded Plaintiff \$1,297.24 in restitution for unpaid meal and rest break premium wages during those same weeks. (*Id.*). The Court found for Rite Aid on Plaintiff’s claim for failure to pay timely wages. (*Id.*). In sum, the Court awarded Plaintiff \$13,521.83. (*Id.*).

Plaintiff now seeks to recover her attorneys’ fees and reimbursement for nontaxable costs.

II. DISCUSSION

In light of Plaintiff’s verdict on two of her three claims, Plaintiff requests the Court award (1) attorneys’ fees in the amount of **\$603,090** and (2) litigation costs in the amount of **\$21,938.80**.

A. Compliance with the Local Rules

As an initial matter, Rite Aid contends that the Motion should be denied outright because Plaintiff’s counsel failed to meet and confer prior to filing the Motion, in

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violation of Local Rule 7-3. Rite Aid contends that although the parties discussed “the *fact* that [P]laintiff would be seeking fees several times following the Court’s issuance of its March 16, 2017, ruling, there was no discussion of the substance of any such motion until April 6, 2017,” less than seven days before the Motion was filed. (Opp. at 6). Rite Aid further complains that Plaintiff’s counsel never provided Rite Aid with billing records or other evidence to support their fee request prior to filing the Motion. (*Id.* at 7). Plaintiff’s counsel responds that the parties discussed the fee request on several occasions prior to the filing of the Motion, during which conversations counsel discussed the lodestar and the requested 1.5 positive multiplier that Plaintiff now seeks. (Supplemental Declaration of Michael Righetti ¶ 2 (Docket No. 157-1)).

Plaintiff appears to have made an effort to meet and confer prior to filing the Motion. Moreover, although Plaintiff filed her Motion on April 10, 2017, the Motion was not noticed for hearing until June 12, 2017. Rite Aid had more than the usual 28 day notice of the Motion and its contents. There is no requirement that a party must disclose all supporting documents during the meet and confer on a request for attorney’s fees. The Court emphasizes the importance of complying with Local Rule 7-3, which has several important functions; here, however, the Court concludes that Plaintiff’s counsel substantially complied with the rule. The Court will consider the Motion. *See Jeff Tracy, Inc. v. Scottsdale Ins. Co.*, No. SACV 14-1532-DOC (ANx), 2015 WL 12778349, at *3 (C.D. Cal. Aug. 28, 2015) (declining to deny motion under Local Rule 7-3 where Plaintiff’s counsel substantially complied with its requirements); *Reed v. Sandstone Properties, L.P.*, No. CV 12-5021 MMM (VBKx), 2013 WL 1344912, at *6 (C.D. Cal. Apr. 2, 2013) (“Because Reed suffered no real prejudice as a result of the late conference, however, the court elects to consider the motion on the merits.”).

B. Attorneys’ Fees

California Labor Code section 1194 provides for the award of attorneys’ fees and costs to a prevailing plaintiff on an action for unpaid overtime compensation. *Id.*; *see also Earley v. Superior Court*, 79 Cal. App. 4th 1420, 1429, 95 Cal. Rptr. 2d 57 (2000), *as modified* (Apr. 26, 2000). “[T]he one-way fee-shifting rule in section 1194

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was meant to ‘encourage injured parties to seek redress — and thus simultaneously enforce [the minimum wage and overtime laws] — in situations where they otherwise would not find it economical to sue.’” *Id.* at 1430–31 (quoting *Covenant Mutual Ins. Co. v. Young*, 179 Cal. App. 3d 318, 325, 225 Cal. Rptr. 861 (1986)).

California requires that the Court begin its fee calculation with the lodestar method. *See Ketchum v. Moses*, 24 Cal. 4th 1122, 1134, 104 Cal. Rptr. 2d 377 (2001). To determine the lodestar, the Court must first determine all the hours reasonably billed. The Court must then multiply that total by “the hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type.” *Horsford v. Bd. of Trustees of Cal. State Univ.*, 132 Cal. App. 4th 359, 394, 33 Cal. Rptr. 3d 644 (2005) (describing the policy behind requiring use of the lodestar method). The moving party bears the burden to produce evidence that the rates and hours worked are reasonable. *See Intel Corp. v. Terabyte Int’l*, 6 F.3d 614, 623 (9th Cir. 1983) (“If the applicant satisfies its burden of showing that the claimed rate and number of hours are reasonable, the resulting product is presumed to be the reasonable fee.”) (internal quotation marks and citations omitted). The Court may exclude hours it deems “excessive, redundant, or otherwise unnecessary.” *Jankey v. Poop Deck*, 537 F.3d 1122, 1122 (9th Cir. 2008).

Plaintiff requests the following attorneys’ fees:

Attorney	Title	Hours Billed	Rate	Lodestar Total
Matthew Righetti	Partner	162.3	\$800	\$129,840
Michael Righetti	Associate	540	\$450	\$243,000
Kelly Karpenske	Paralegal	194.8	\$150	\$29,220
Total		897.1		\$402,060

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(Mot. at 5–6).

1. Reasonable Hourly Rate

“To determine a ‘reasonable hourly rate,’ the district court should consider: ‘experience, reputation, and ability of the attorney; the outcome of the results of the proceedings; the customary fees; and the novelty or the difficulty of the question presented.’” *Hiken v. Dep’t of Def.*, 836 F.3d 1037, 1044 (9th Cir. 2016) (quoting *Chalmers v. City of L.A.*, 796 F.2d 1205, 1211 (9th Cir. 1986)). “Affidavits of the plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly those setting a rate for the plaintiffs’ attorney, are satisfactory evidence of the prevailing market rate.” *Beauchamp v. Anaheim Union High Sch. Dist.*, 816 F.3d 1216, 1224 (9th Cir. 2016) (quoting *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990)). “Once a fee applicant presents such evidence, the opposing party ‘has a burden of rebuttal that requires submission of evidence . . . challenging the accuracy and reasonableness of the . . . facts asserted by the prevailing party in its submitted affidavits.’” *Chaudhry v. City of L.A.*, 751 F.3d 1096, 1110–11 (9th Cir. 2014) (quoting *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir.2008)).

Plaintiff’s counsel have submitted several affidavits regarding their experience, qualifications, prior fee awards in similar cases, and the prevailing fees in the community. (See Declaration of Michael Righetti (“Michael Righetti Decl.”) ¶¶ 10–15) (Docket No. 153-2); Declaration of Matthew Righetti (“Matthew Righetti Decl.”) ¶¶ 2–14 (Docket No. 153-3); Declaration of Kelly Karpenske (“Karpenske Decl.”) ¶ 3 (Docket No. 153-5)). Specifically, Matthew Righetti has been practicing law for 32 years, during which time he has developed a robust class action practice. (Matthew Righetti Decl. ¶ 3). Michael Righetti had been practicing law since 2008, and litigated multiple class actions to trial. (Michael Righetti Decl. ¶¶ 10–14). Both of the Righettis and Karpenske present evidence that they previously have been approved at their requested rates. (See *id.* ¶ 15; Matthew Righetti Decl. ¶ 8). Finally, Rite Aid does not contest the reasonableness of the requested rates.

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Accordingly, the Court will calculate the lodestar according to counsel's requested rates.

2. Reasonable Number of Hours

Plaintiff's attorneys also provide detailed time sheets indicating that they have spent a total of 897.1 hours prosecuting this action. (Matthew Righetti Decl. ¶ 15, Ex. 1 ("Billing Records") (Docket No. 153-4)). Rite Aid contests a number of entries it believes to be block-billed, excessively vague, and inflated. (Opp. at 14–18). Rite Aid further contends that Plaintiff's counsel have billed for hours they spent litigating other, related actions. (*Id.* at 17–18).

The Court has reviewed the billing records and finds them reasonably specific. Rite Aid's objections to Plaintiff's counsel's practice of block billing are well-taken. For example, Plaintiff occasionally billed for "teleconferences" and "correspondence" without further elaboration, and numerous hours before and during trial were billed to "trial prep" without further elaboration. On the other hand, taken as a whole the billing records indicate that Plaintiff's counsel ran a surprisingly lean operation, given the large amount of discovery Rite Aid produced (*see, e.g.*, Michael Righetti Decl. ¶ 8), the extended period of time in which this action was pending in the Court, and the sheer amount of time it takes to prepare an action for trial, especially one where the Plaintiff had the burden of producing evidence of her schedule week by week for more than three years. Despite Rite Aid's objections, raised in the briefing and renewed at the hearing, the Court takes Plaintiff's counsel at their word that they "did not 'double bill' for work performed across the various Rite Aid cases" and that in "situations where the work covered multiple cases, Plaintiff's counsel either did not include all of the time spent or drastically discounted such time to account for the fact that the same work needed to be performed across dozens of cases." (Matthew Righetti Decl. ¶ 16) (emphasis omitted). The truth of this statement is reflected in the overall modest lodestar request.

At the hearing, Rite Aid renewed its challenge, set out in the briefing, that the time Plaintiff's counsel billed during trial was inflated. Specifically, Rite Aid contends

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that Michael Righetti could not possibly have “attended trial” for 32 hours each week (that is, 8 hours each day for the 4 day trial week) given that trial itself lasted only five and a half hours per day, plus some time to argue motions before and after trial each day, and trial ended early on the third day of the second week. (*See* Opp. at 16–17). Assuming that, as he explains, Michael Righetti arrived at 7:30 a.m. each day and stayed until the late afternoon meeting with Plaintiff and working on trial-related issues, these hours are, if anything, reduced from the amount of time Michael Righetti spent physically in the courthouse “attending trial.” (*See* Reply at 10–11). Nor does the Court find it unlikely that Matthew Righetti would have participated in trial preparation and strategy from San Francisco. Plaintiff’s counsel affirmed that this was so at the hearing. Accordingly, the Court finds that the time billed by Plaintiff’s counsel in connection with the trial was not impermissibly inflated.

Whether to penalize for block billing is within the discretion of the Court. Where block billing does not prevent the Court from meaningfully “discerning which tasks are compensable and which are not” the Court may decline to take a red pen to each block-billed entry. *Heritage Pac. Fin., LLC v. Monroy*, 215 Cal. App. 4th 972, 1010, 156 Cal. Rptr. 3d 26 (2013). Here, despite the occasional vague time entry, there simply is not much in the way of fat to cut. Accordingly, the Court applies a small, 3% “haircut” to the hours charged, to account for any inefficiencies. *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008) (permitting the district court to “impose a small reduction, no greater than 10 percent — a ‘haircut’ — based on its exercise of discretion and without a more specific explanation”); *see also*, *Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1111 (9th Cir. 2014) (affirming the rule that “[a] district court can reduce a lawyer’s request for duplicative or unnecessary work, and it can impose up to a 10 percent reduction without explanation.”); *Banas v. Volcano Corp.*, 47 F. Supp. 3d 957, 969 (N.D. Cal. 2014) (applying a 5% across-the-board reduction to the hours billed to account for excessive billing and inefficiency); *Rosenfeld v. U.S. Dep’t of Justice*, 904 F. Supp. 2d 988, 1008 (N.D. Cal. 2012) (reducing fee award by 10% to account for counsel’s billing inefficiencies and failure to demonstrate appropriate billing judgment); *Jadwin v. Cty. of Kern*, 767 F. Supp. 2d

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1069, 1112–13 (E.D. Cal. 2011) (applying “[a] modest downward adjustment of 10% . . . with respect to the alleged non-litigation work”).

3. Multiplier

Finally, Plaintiff requests a 1.5 upward multiplier to account for the quality of representation, contingent nature of the litigation, novelty and complexity of the issues, special skill and experience of counsel, and what she believes to be counsel’s superior performance. (Mot. at 15–17). In response, Rite Aid contends that the fee award should be reduced to reflect the fact that Plaintiff’s award was a fraction of what she sought in the litigation. (Opp. at 8–14, 18–21).

“Because there is a strong presumption that the lodestar amount represents a reasonable fee, adjustments to the lodestar ‘are the exception rather than the rule.’” *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 738 (9th Cir. 2016) (per curiam) (quoting *Fischel v. Equitable Life Assurance Soc’y*, 307 F.3d 997, 1007 (9th Cir. 2002)). Nevertheless, the Court in its discretion may adjust the lodestar figure upward or downward based on the factors first enunciated in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975), including:

(1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the “undesirability” of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases.

Antoninetti v. Chipotle Mexican Grill, Inc., 49 F. Supp. 3d 710, 715–16 (S.D. Cal. 2014), *aff’d sub nom. Goldkorn v. Chipotle Mexican Grill, Inc.*, 669 F. App’x 920 (9th

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV-13-03865-MWF (JEMx)

Date: July 10, 2017

Title: Marine Bargas -v.- Rite Aid Corporation, et al.

Cir. 2016). Many of these factors are necessarily folded into the lodestar calculation, and need not be considered again as to a multiplier.

The most important factor, both in the view of the State of California and in the view of this Court under the current circumstances, is the plaintiff's success. *See Envtl. Prot. Info. Ctr. v. California Dep't of Forestry & Fire Prot.*, 190 Cal. App. 4th 217, 238, 118 Cal. Rptr. 3d 352 (2010), *as modified on denial of reh'g* (Dec. 15, 2010) ("EPIC") ("California law, like federal law, considers the extent of a plaintiff's success a crucial factor in determining the amount of a prevailing party's attorney fees."). "[U]nder state law as well as federal law, a reduced fee award is appropriate when a claimant achieves only limited success." *Chavez v. City of Los Angeles*, 47 Cal. 4th 970, 989, 104 Cal. Rptr. 3d 710 (2010) (citations omitted). Where a plaintiff fails to obtain "important goals of" the action, even if she has technically prevailed on all of her claims, "the trial court should take into consideration the limited success achieved . . ." *Sokolow v. Cty. of San Mateo*, 213 Cal. App. 3d 231, 250, 261 Cal. Rptr. 520 (Ct. App. 1989).

The Court recognizes that wage and hour claims like this one are an important vehicle for holding California employers accountable under the state's particularly strict labor scheme. On the other hand, where the plaintiff has achieved only a very limited form of success, the full lodestar amount may be a windfall. The Court concludes that is the case here. After balancing the important objectives underlying the California Labor Code and the interest in encouraging future such lawsuits to be brought with the limited success Plaintiff achieved, the fees will be reduced by an additional 20%.

In *Hensley v. Eckhart*, 461 U.S. 424 (1983), the Supreme Court set out a two-step test for determining whether a fee award should be reduced in light of the plaintiff's limited success. California applies the *Hensley* approach to fee requests under state statute. *See Chavez*, 47 Cal. 4th at 989.

"The first step asks whether 'the plaintiff failed to prevail on claims that were unrelated to the claims on which [s]he succeeded.'" *EPIC*, 190 Cal. App. 4th at 239

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(quoting *Hensley*, 461 U.S. at 434). Here, both parties agreed that all of Plaintiff's claims were related. Accordingly, "the [C]ourt proceeds to the second step of *Hensley* inquiry, which asks whether 'the plaintiff achieved a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award.'" *Id.* (quoting *Hensley*, 461 U.S. at 434). "The court may appropriately reduce the lodestar calculation if the relief, however significant, is limited in comparison to the scope of the litigation as a whole." *Id.* (quoting *Harman v. City and Cty. of S.F.*, 136 Cal. App. 4th 1279, 1312, 39 Cal. Rptr. 3d 589 (2006)).

Plaintiff asserted at trial that Rite Aid misclassified her as an exempt employee, and thus owed her overtime compensation, for the approximately three and a half years (about 182 weeks) she worked as a Store Manager. (FFCL at 10–11). The Court found for Plaintiff on only 16 of those weeks, *i.e.* the weeks that Plaintiff participated in remodels and inventories. (*Id.* at 20). That is, Rite Aid was found to have no liability for about 90% of the weeks in which Plaintiff sought recovery. Well aware of the minimal nature of the award, the Court explicitly characterized it as "a modest verdict" in light of the fact that "in general, Plaintiff did not spend most of her time on nonexempt work. In other words, Rite Aid largely proved its affirmative defense of the executive exemption" with just a few exceptions. (*Id.* at 2). Given Plaintiff's minimal success in her misclassification claim, awarding counsel the lodestar amount would be a windfall.

However, the Court also considers Rite Aid's suggested reduction — an almost 95% cut, from about \$400,000 to just over \$30,000 — to be overly harsh. A reduction of that magnitude is unwarranted in light of Plaintiff's counsel's excellent trial advocacy, the great number of attorney hours required to deal with the volume and extent of Rite Aid's discovery responses, Rite Aid's insistence on litigating the action to trial, and the important role wage and hour claims play in enforcing the California Labor Code.

Indeed, this Court's discretion to reduce a fee award is not unfettered. The Ninth Circuit emphasizes balancing the limited success with the public benefit in fee shifting actions. Although the existing case law might support as much as a 30% cut,

UNITED STATES DISTRICT COURT
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the Court believes that anything more would be much more closely scrutinized in light of the fact that the California Labor Code explicitly provides for fee shifting to encourage litigation in this particular area. *See Cmty. Ass'n for Restoration of the Env't v. Henry Bosma Dairy*, 305 F.3d 943, 957 (9th Cir. 2002) (approving district court's fee reduction of 30% where the district court balanced the public benefits of the suit with the individual plaintiff's limited success); *Corder v. Gates*, 947 F.2d 374, 378–81 (9th Cir. 1991) (discussing instances in which the Ninth Circuit approved fee reductions of up to 25% for the plaintiffs' limited success); *Pierce v. Cty. of Orange*, 905 F. Supp. 2d 1017, 1041 (C.D. Cal. 2012) (reducing fee award by 30% after balancing the plaintiffs' limited success with the importance of encouraging similar claims).

At the hearing, Rite Aid discussed three cases in which the plaintiff's requested fees were cut by more than 30%: *Perez v. Safety-Kleen Systems, Inc.*, 448 F. App'x 707 (9th Cir. 2011); *Chavez v. City of Los Angeles*, 47 Cal. 4th 970 (2010); and *Heyen v. Safeway Inc.*, No. B243610, 2014 WL 2154676 (May 23, 2014). None of these cases are binding, and all are distinguishable. As the Court noted at the hearing, Plaintiff's fee motion does not present a heavy pencil issue. Rather, the question is whether, and to what extent, Plaintiff's fees should be cut to account for her limited success. Most notably, unlike the plaintiffs in all three of the foregoing cases, Plaintiff's action was tried in the context of a plethora of similar actions brought by similar plaintiffs and represented by the same attorneys. Therefore, the purpose of the trial was not just to determine Rite Aid's liability as to Plaintiff, but also to gauge the strength of the entire cluster of claims, and hopefully thereby to facilitate settlement discussions. As Plaintiff's counsel explained at the hearing, the trial provided valuable data for both sides, which has since led to a wave of settlements. In this sense, then, Plaintiff achieved a greater success than Rite Aid gives her credit for.

Nor did the Court discount Plaintiff's larger theory — that Rite Aid was using its store managers to soak up overtime hours it did not want to pay. That theory was expressly preserved in the Court's Findings of Fact and Conclusions of Law. Although the Court found Plaintiff to be less than credible as to her own hours, Plaintiff's theory

UNITED STATES DISTRICT COURT
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continues to be viable. A different, more credible, plaintiff from the cluster could easily meet with greater success.

In light of the foregoing, the Court concludes that even a 30% cut would be inequitable. The Court has already accounted to some extent for Plaintiff's limited success by reducing the fee award based on counsel's billing inefficiencies. *See Corder*, 947 F.2d at 378 (noting that typically limited success is "subsumed within the initial calculation of hours reasonably expended at a reasonable hourly rate"). Accordingly, the Court concludes that a more modest reduction of 20%, in addition to the 3% "haircut," is sufficient to transform the requested fee award from a windfall to a fair award in light of all the relevant factors.

4. Final Award

In sum, a 23% cut will be applied to the lodestar amount to account for billing inefficiencies and Plaintiff's limited success at trial. The Court thus awards Plaintiff **\$309,586.20** in attorneys' fees.

C. Nontaxable Costs

The Motion included a request for \$21,938.80 in nontaxable "costs of suit" as provided for in California Labor Code section 1194(a). (Mot. at 17). Rite Aid challenged some of Plaintiff's calculations and the propriety of certain enumerated costs, and asked the Court to reduce the award of costs to \$12,408.64. (Opp. at 21). In her Reply, Plaintiff did not contest Rite Aid's requested reduction. (Reply at 11–12). The Court has reviewed the records submitted in support of Plaintiff's request and finds that the remaining costs are reasonable.

Accordingly, Plaintiff is awarded **\$12,408.64**.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV-13-03865-MWF (JEMx)

Date: July 10, 2017

Title: Marine Bargas -v.- Rite Aid Corporation, et al.

III. CONCLUSION

For the foregoing reasons, the Motion is **GRANTED *in part***. Plaintiff is awarded **\$309,586.20** in attorneys' fees, and **\$12,408.64** in nontaxable costs.

IT IS SO ORDERED.

EXHIBIT 4

TIME REPORT

Firm Name: Righetti Glugoski, PC

Categories:

- | | | |
|---|---|--|
| (A) Attorney
(PL) Paralegal
<hr/> | (1) Investigations, Factual Research | (5) Mediation |
| | (2) Discovery | (6) Litigation Strategy, Analysis and Case Management |
| | (3) Pleadings, Briefs and Pretrial Motions | (7) Class Certification |
| | (4) Court Appearances | (8) Summary Judgment |

[illegible]

EXHIBIT 5

**Case Costs Summary for Sadino/Johnson v. Propark Inc.
Righetti Glugoski, P.C.**

DESCRIPTION	NOTES	AMOUNT
Photocopies	In house and outside	\$2,768.50
Postage/Class Mailings/Correspondence	Belaire and subsequent mailings	\$2,874.75
Travel/Lodging	LA, depositions, mediations	\$7,850.30
On-Line Research (pro-rata Westlaw/LexisNexis)	2017-21	\$2,298.23
Mileage/Parking/Rideshare	Uber/Lyft/Parking fees	\$385.00
Court reporters; and deposition costs		\$17,280.45
Courier/Overnight Services	Fax & File,Go Courier, FedEx, UPS	\$3,164.29
Process servers; subpoenas, etc.		\$2,643.45
Court Filing Fees		\$2,788.05
Database analytics consultant	Brisco Economics	\$22,947.50
Court Call charges		\$1,468.00
At&T Conference Services		\$1,083.05
Mediations	Jams - Marlin	\$4,950.00
DocuSign Charges		\$489.50
TOTAL:		\$72,991.07

EXHIBIT 6

MATTHEW RIGHETTI, ESQ. {121012}
MICHAEL RIGHETTI, ESQ {258541}
RIGHETTI · GLUGOSKI, P.C.
220 Halleck Street, Suite 200
San Francisco, CA 94129
Telephone: (415) 983-0900
Facsimile: (415) 397-9005

Attorneys for Plaintiff

THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

AARON SADINO and ANTHONY	)	CLASS ACTION
JOHNSON, individually and on behalf of all)	
others similarly situated ,	)	CASE NO. CGC-17-560186
)	
	)	DECLARATION OF ELIZABETH
Plaintiff,	)	KRUCKENBERG REGARDING
	)	NOTICE AND SETTLEMENT
vs.	)	ADMINISTRATION
)	
	)	Date: June 29, 2021
PROPARK AMERICA WEST, LLC; JOHN	)	Time: 9:00 AM
STEELE; MICHAEL HEWITT; RYAN	)	Hon. Andrew Y.S. Cheng
DREISBACH; PRO PARK INC; RICHARD	)	Dept 613
DIPIETRO; TIM WILLEY; PATRICK		
BOESHANS and DOES 5 through 50,		
Inclusive,,		
Defendants.		

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DECLARATION OF ELIZABETH KRUCKENBERG

I, Elizabeth Kruckenberg, declare under penalty of perjury as follows:

1. I am the Director of Case Management at Phoenix Settlement Administrators (PSA), the Court-appointed Class Action Settlement Administrator for *Sadino et al. v. Propark et al.* I have personal knowledge of the facts stated herein and, if called upon to testify, I could and would testify competently to such facts.

2. PSA was selected by the Parties to provide notice of the Settlement and class administration duties in this action. Pursuant to the Settlement Agreement for this matter, PSA was responsible for (i) preparing, printing, translating, and mailing the *Notice of Proposed Class Action Settlement, Dispute Form, Exclusion Form, and Objection Form* (herein referred to as the “Notice Packet”); (ii) responding to inquiries from Class Members; (iii) determining the validity of opt-outs; (iv) calculating the Net Settlement Amount and the Individual Settlement payments; (v) issuing the Individual Settlement Payment checks and distributing them to Participating Class Members; (vi) issuing the payment to Class Counsel for attorneys’ fees and costs, the Enhancement check to Named Plaintiff, and the employer/employee payroll taxes to the appropriate taxing authorities; and (vii) such other tasks as set forth in the Agreement or as the Parties mutually agree or as the Court orders.

3. On March 29, 2021, PSA received a data file from Defense Counsel that contained names, last known mailing addresses, Social Security numbers, and total number of pay periods for each Class Member during the Class Period. The final mailing list contained three thousand five hundred twenty-two (3,522) Class Members.

4. On April 22, 2021, PSA conducted a National Change of Address (NCOA) search in an attempt to update the class list of addresses as accurately as possible. A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address.

1 5. On April 22, 2021, PSA mailed the Notice Packet via U.S. first class mail, in
2 English and Spanish to all three thousand five hundred twenty-two (3,522) Class Members on
3 the Class List. A true and correct copy of the mailed Notice Packet is attached hereto as **Exhibit**
4 **A.**

5 6. As of the date of this declaration, eighty-two (82) Notice Packets have been
6 returned to PSA. Only two (2) Notice Packets were returned with a forwarding address. For the
7 eighty (80) Notice Packets returned from the Post Office without a forwarding address, PSA
8 attempted to locate a current mailing address using TransUnion TLOxp, one of the most
9 comprehensive address databases available for skip tracing. Of the eighty (80) Notice Packets
10 that were skip traced, fifty-one (51) updated addresses were obtained and the Notice Packet was
11 promptly re-mailed to those Class Members via first class mail.

12 7. As of the date of this declaration, twenty-nine (29) Notice Packets are considered
13 undeliverable. Specifically, all twenty-nine (29) Notice Packet was undeliverable since an
14 updated address could not be obtained and forwarding wasn't provided by the Post Office.

15 8. PSA has received zero (0) Request for Exclusion (*i.e.* "Opt-Out's"). The
16 deadline for Class Members to submit an "Opt-Out" request is May 22, 2021.

17 9. PSA has received zero (0) Objections to the Settlement. The deadline for Class
18 Members to submit an "Objection" to the Settlement is May 22, 2021.

19 10. There are no outstanding disputes. The deadline for Class Members to submit
20 an "Dispute" to the Settlement is May 7, 2021.

21 11. The Net Settlement Fund of \$789,508.93 available to pay Class Members was
22 determined by subtracting the Class Counsel attorneys' fees (\$525,000.00), Class Counsel costs
23 payment (\$72,991.07), Class Representative Enhancement Awards totaling (\$40,000.00), the
24 LWDA distribution (\$30,000.00), and the Claims Administrator costs (\$42,500.00) from the
25 Gross Settlement Fund (\$1,500,000.00). Based upon the calculations stipulated in the
26 Settlement, the highest individual settlement payment to be paid will be approximately
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1 \$1,581.66, and the lowest individual settlement payment to be paid will be approximately \$8.94,
2 with the average individual settlement payment to be paid being approximately \$224.16,
3 without applicable taxes, withholdings, and employee garnishments.
4

5 12. PSA's costs associated with the administration of this matter are \$42,500.00.
6 This includes all costs incurred to date, as well as estimated costs involved in completing the
7 settlement distribution. A true and correct copy of the invoice from PSA is attached hereto as
8 **Exhibit B.**

9 I declare under penalty of perjury of the laws of the State of California that the foregoing
10 is true and correct.

11 Executed this 7th day of May 2021, at St. George, Utah.

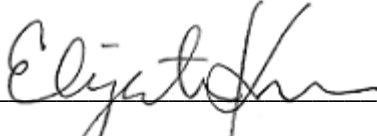
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15 ELIZABETH KRUCKENBERG
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Exhibit A

*This is a court-authorized notice. This is not a solicitation from a lawyer.
Your rights may be affected, whether or not you take any action.*

This Notice May Affect Your Rights – Please Read It Carefully

AARON SADINO and ANTHONY
JOHNSON, individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

PROPARK AMERICA WEST, LLC; JOHN
STEELE; MICHAEL HEWITT; RYAN
DREISBACH; PRO PARK INC; RICHARD
DIPIETRO; TIM WILLEY; PATRICK
BOESHANS and DOES 5 through 50,
Inclusive,

Defendants.

CASE NO. CGC-17-560186

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND FINAL APPROVAL
HEARING**

Final Settlement Approval Hearing

Date: June 29, 2021

Time: 9:00 AM

Dept.: 613

Location: 400 McAllister Street
San Francisco, CA 94102

Judge: Honorable Andrew Y.S. Cheng

TO: All current and former parking and valet employees (including valet attendants, parking attendants, cashiers, night auditors, supervisors, and foremen) of Propark America West, LLC in California from July 17, 2013 through March 2, 2020, who do not timely request exclusion from the Settlement.

I. PURPOSE OF THIS NOTICE

You are receiving this Notice of Proposed Settlement and Final Approval Hearing (“Notice”) because, according to Propark America West’s records, you are a Putative Class Member in the case described above, meaning that you were employed by Propark America West and performed parking/valet services including valet/parking attendants, cashiers, night auditors and supervisors/foremen) at any time from July 17, 2013 to March 2, 2020 and therefore may have potential wage and hour claims for alleged meal or rest break violations and unpaid wages under California law, including alleged wage statement violations, related violations of the California Unfair Competition Law (“UCL”), and related civil penalties for such violations under the California Labor Code Private Attorneys General Act (“PAGA”). As such, your rights may be affected by a proposed settlement reached by Plaintiffs Aaron Sadino and Anthony Johnson (“Plaintiffs” or “Class Representatives”) and Propark America West, LLC and Propark Inc. (“Defendants” or “Propark”). Collectively, the Plaintiffs and Defendants are referred to herein as the “Parties.”

This Notice describes the lawsuit, informs you of the proposed settlement, and explains your rights in connection with the proposed settlement of this lawsuit. **To participate in this Settlement and receive money you are not required to take any action at this time.**

THIS NOTICE IS NOT AN EXPRESSION BY THE COURT OF AN OPINION CONCERNING THE MERITS OF ANY CLAIM OR DEFENSE OR THE TRUTH OF ANY OF THE ALLEGATIONS MADE BY THE PARTIES. THE COURT HAS DETERMINED ONLY THAT THERE IS SUFFICIENT EVIDENCE TO SUGGEST THAT THE SETTLEMENT MIGHT BE FAIR, ADEQUATE AND REASONABLE. A FINAL DETERMINATION AS TO THE FAIRNESS OF THE SETTLEMENT WILL BE MADE AT THE FINAL APPROVAL HEARING ON JUNE 29, 2021 AT 9:00 A.M.

II. BACKGROUND OF THE LAWSUIT

Plaintiffs allege generally that Defendants failed to provide lawful meal periods and rest breaks to persons who were employed by Propark America West LLC and who performed parking/valet services including valet/parking attendants, cashiers, night auditors and supervisors/foremen. Plaintiffs also allege that Defendants failed to pay all wages owed in circumstances where lawful meal periods and rest breaks were not provided. Plaintiffs also allege claims that are derivative of their meal period and rest break claims, such as a failure to timely pay all wages upon separation of employment, a failure to furnish accurate wage statements, violations of the Unfair Competition Law and violations of the Private Attorneys General Act (“PAGA”) on behalf of the Labor Workforce Development Agency.

Defendants deny the allegations in the Lawsuit. Defendants further contend and believe that they have, at all relevant times, properly paid and treated Propark employees, including all of the members of the Settlement Class, in compliance with all applicable laws and regulations.

On March 8, 2021, Judge Andrew Y.S. Cheng, who is the judge presiding over the Lawsuit, preliminarily approved a settlement of the Lawsuit for the Settlement Class Members. The Court preliminarily appointed Matthew Righetti and Michael Righetti of Righetti Glugoski, P.C. as class counsel (hereinafter “Class Counsel”).

III. WHAT ARE YOUR RIGHTS AND OPTIONS AS A SETTLEMENT CLASS MEMBER?

Your interests as a Settlement Class Member are conditionally represented by the Class Representatives and by the Court-appointed Class Counsel. If you do not exclude yourself from the Settlement Agreement you will be bound by the terms of the Settlement Agreement and any final judgment that may be entered by the Court, and you will be deemed to have released certain claims against Defendants as described below and in the Settlement Agreement. As a Settlement Class Member, you will not be individually responsible for the payment of attorneys’ fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys’ fees and costs.

A. Receiving a Payment from the Settlement

If you wish to participate in the settlement and receive your Individual Settlement Payment, nothing is required of you at this time. If the Court grants final approval of the settlement and you qualify as a Settlement Class Member, you will receive your settlement payment based on the number of pay periods you worked as a Settlement Class Member during the Settlement Class Period. You will also be bound by the terms of the settlement and will release the Released Parties from any and all claims that you may have based on the allegations in the Lawsuit as provided below in Section V.A, below, and in the Settlement Agreement.

B. Objecting to the Settlement

You can ask the Court to deny approval of the settlement **by completing and submitting the enclosed Objection Form** to the Settlement Administrator at the address below or by appearing personally or through counsel at the Final Approval Hearing on June 29, 2021 at 9:00 a.m. in Department 613 of the Superior Court of California, County of San Francisco, 400 McAllister Street, San Francisco CA 94102. Written Objection Forms must be postmarked on or before **May 22, 2021**. Your Objection Form must include (1) your full name, (2) your address, (3) telephone number, (4) all legal and factual grounds for your objection, (5) a statement as to whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, a statement identifying your counsel by name, bar number, address, and telephone number and (6) your signature (regardless of whether you are represented by counsel).

In order to object to the settlement, or any portion of it, in writing, your objection must be mailed to the Settlement Administrator with a postmarked date on or before **May 22, 2021**, at the following address:

Sadino et al. v. Propark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

If you wish to be heard on your objection by the Court, please indicate a notice of your intention to appear at the Final Approval Hearing, but in any event you may appear and be heard at the Final Approval Hearing.

DO NOT TELEPHONE THE COURT

C. Excluding Yourself from the Settlement

If you qualify to be part of the Settlement Class but do not wish to release any claims against the Released Parties and do not wish to receive a payment, you may exclude yourself (in other words, you may “opt out”) **by completing and submitting the enclosed Exclusion Form**. Your Exclusion Form must contain the following information: (1) your full name, (2) your address, (3) phone number, and (4) your signature, even if you are represented by counsel. **Your Exclusion Form must be postmarked on or before May 22, 2021, and it must be mailed to:**

Sadino et al. v. Propark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

Any Putative Class Member who timely requests to be excluded shall no longer be a Settlement Class Member; shall be barred from participating in any portion of the settlement; may not object to the settlement; and shall receive no payment or benefits from the settlement. Notwithstanding the timely submission of this request for exclusion, I understand that I will still be bound by the settlement’s release of my PAGA Claims. By opting out, I understand that I am effectively giving up my PAGA claims, without any possibility of compensation in the future for those claims. However, I understand that I will retain my right to pursue all non-PAGA claims arising out of the complaint. You should consider consulting with an attorney of your own choosing, promptly, if you wish to pursue your own claims. If you submit a timely and proper request for exclusion you may not file an objection to the Settlement or receive a Settlement Payment, and shall be deemed to have waived any rights or benefits under the Settlement Agreement. If you submit both an objection and a valid and timely request for exclusion, the request for exclusion will override the objection, and the objection shall therefore be ignored.

D. Dispute Your Estimated Settlement Payment

Based on preliminary estimates, the net amount of the settlement payment you would receive would be approximately «**Est_Amount**», which is the net amount after deductions for attorneys’ fees, litigation costs, service awards for the Plaintiffs, administration expenses and PAGA payments, as mentioned above. According to Propark’s records, you worked an aggregate of «**Pay_Periods_with_Earned_Income**» pay periods as a Settlement Class Member for Defendant.

If you wish to dispute the determination of your number of pay periods as set forth above, you must complete and submit the enclosed Dispute Form to the Settlement Administrator **postmarked no later than May 7, 2021 to the following address:**

Sadino et al. v. ProPark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

You must include your full name, your current address, the last four digits of your social security number, the dates you contend you were employed by Propark, and the number of pay periods you contend you worked for Propark during the Settlement Period. Please provide any documentation you may have that you worked more pay periods than the number provided in this notice. The Settlement Administrator shall review any documentation you submit and consult with the Parties to determine whether an adjustment Pay Periods is warranted. If an adjustment is warranted, you will be promptly notified by the Settlement Administrator. The Settlement Administrator's determination of the amount of any Settlement Class Member's Pay Periods Worked shall be binding upon you and the Parties, and your Individual Settlement Payment will be calculated according to the Settlement Administrator's determination.

E. Doing Nothing

If you do nothing, you will receive your Individual Settlement Payment from the Settlement, **and you will be bound by the terms of the settlement and will release the Released Parties from any and all claims that you may have based on the allegations in the Lawsuit** as provided below in Section V.A, below, and in the Settlement Agreement.

IV. SUMMARY OF THE TERMS OF THE PROPOSED SETTLEMENT

This Notice provides a summary of the basic terms of the proposed settlement. If you would like a copy of the Settlement Agreement, please contact Class Counsel at the address indicated below or visit the Settlement Website at:

www.PhoenixClassAction.com/ProparkCaliforniaEmployeeSettlement.

A. Definition of Settlement Class Member

The Court certified, for settlement purposes only, the Settlement Class, as defined above.

B. Terms of the Proposed Settlement

The total settlement to be paid by Defendants will be One Million Five Hundred Thousand Dollars (\$1,500,000.00) and any accrued interest (the "Total Settlement Amount" or "TSA"). From the Total Settlement Amount, before each Settlement Class Member's share is calculated as described below, deductions will be made from the total for the payment of the Court-approved attorneys' fees (\$525,000.00) and costs (\$75,000.00), for the class representative enhancements to be paid to the Plaintiffs who stepped forward to lead the Lawsuit (\$20,000.00 each), as well as for the cost of the Settlement Administrator to administer the Settlement (\$42,500.00), and also for the portion of penalties paid to the State of California under PAGA (i.e. the PAGA Payment). The Parties have designated \$40,000.00 of the TSA as payment for civil penalties under the PAGA, of which 75% of that amount will be paid to the Labor Workforce Development Agency out of the TSA, and the remaining 25% will become part of the distribution to Settlement Class Members. The amount that remains after these Court-approved deductions is referred to herein as the Net Settlement Fund ("NSF"). Specifically included in the NSF are employee payroll taxes which may be owed as a result of the payments to be made to the Settlement Class Members.

The Settlement Administrator shall distribute the settlement amounts in no more than three (3) distributions. The first distribution shall take place within thirty (30) days of the First Payment Deadline. The second distribution shall take place between three-hundred and sixty-five (365) and three-hundred and ninety-five (395) days after the First Payment Deadline. The third distribution shall take place within two (2) years after the First Payment Deadline.

As stated above, the total settlement is \$1,500,000.00, plus interest as described, all of which will be paid by Defendants if the Court approves the settlement. In this case, the NSF is expected to be approximately \$812,500.00, based on preliminary estimates. No money will revert to Defendants.

C. Tax Treatment of Settlement Payments

The settlement payment made to each Settlement Class Member shall be apportioned as follows: (a) 50% for payment of any allegedly unpaid wages, inclusive of all employee payroll taxes, withholdings and deductions (the “Gross Wages Portion”), and (b) 50% for payment of any allegedly owed non-wage damages, liquidated and/or statutory damages, payment of any allegedly owed penalties, and for payment of any allegedly owed interest (the “Non-Wage Portion”). The employer’s shares of the payroll taxes on the Gross Wages Portion of the settlement payments to Settlement Class Members will **not** be paid from the NSF. Settlement Class Members acknowledge that Defendants are not undertaking to advise them with respect to any tax consequences of this settlement. Class Counsel is also not advising the Settlement Class Members or the Plaintiffs as to any tax consequences.

D. Unclaimed Funds

If any portion of the Total Settlement Amount is not successfully distributed to Settlement Class Members (*i.e.* checks are not cashed or checks are returned as undeliverable), then after the Void Date, the Settlement Administrator shall void the check and hold the unclaimed amount, which shall be returned to the Total Settlement Amount and incorporated into the following Individual Settlement Payment disbursement. After the Void Date of the Third Individual Settlement Payment checks has passed, the Settlement Administrator shall direct such unclaimed funds pursuant to governing California law to the California State Controllers’ Office Unclaimed Property Fund, to be held there in the name of and for the benefit of such class members under California’s escheatment laws.

V. EFFECT OF THE SETTLEMENT

A. Released Rights and Claims

The “Released Claims” with respect to the “Released Parties” (defined below) are all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, that each Participating Class Member had, now has, or may hereafter claim to have against the Released Parties that were asserted in the Complaint, or that could have been asserted in the Complaint based on the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in the Complaint, regardless of whether such claims arise under, state and/or local law, statute, ordinance, regulation, common law, or other source of law (“the Released Claims”). The Released Claims specifically include claims for: Labor Code sections 201-204, 210, 226, 226.3, 226.7, 229, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197,

1197.1 and 1198; incorporated or related claims asserted through California Business and Professions Code § 17200; and incorporated or related claims asserted through PAGA. Nothing in this Paragraph is intended to release claims under any federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law that arise from facts outside those alleged in the complaint, specifically potential violations unrelated to a failure to lawfully provide meal periods and/or rest breaks. The “Released Claims” are released from July 17, 2013 through March 2, 2020. “Released Parties” include Defendants and each of their subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent companies and organizations, insurers, and any and all other persons, firms and corporations in which Defendants may have an interest.

The Class Representatives are providing a broader general release of any and all claims they may have against the other Released Parties.

VI. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing on June 29, 2021 at 9:00 a.m. in Department 613 of the Superior Court of California, County of San Francisco, 400 McAllister Street, San Francisco CA 94102, to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and reimbursement of costs and expenses and the Service Awards to be paid to the Class Representatives and the settlement administration costs. Class Counsel may file a written response to any objections to the Settlement Agreement, or to the application for attorneys' fees, reimbursement of expenses, and Class Representatives' enhancement awards. The hearing may be continued without further notice to the Settlement Class Members. It is not necessary for you to appear at this hearing unless you have timely filed an objection, and even then, only if you wish to be heard on your objection by the Court. No further notice will be provided or required of the entry of the orders and/or judgment granting or related to the final approval of the settlement, but you may review such orders or judgments on the settlement website.

VII. ADDITIONAL INFORMATION/WEBSITE

Important information and documents filed in connection with the settlement are accessible on the Settlement Website: www.PhoenixClassAction.com/ProparkCaliforniaEmployeeSettlement

The pleadings and other records regarding the Lawsuit may also be examined at any time during regular business hours at the Office of the Clerk of the Superior Court of California, County of San Francisco, located at The Clerk's Office - Public Viewing Room, 400 McAllister St., Room 103 San Francisco, CA 94102-4514, Customer Service: (415) 551-3802.

You may also access the entire docket for the case free of charge at <https://www.sfsuperiorcourt.org/online-services>). Upon arrival to the website, click on the "Case Query" link. Next, enter the last six numeric digits of the Case: 560186. You will be brought to the "Register of Actions."

Class members are advised to contact Class Counsel or check the Court's docket to confirm that the date for hearing on final approval has not been changed.

Class Counsel is as follows:

RIGHETTI GLUGOSKI, P.C.
Matthew Righetti, Esq.
Michael Righetti, Esq.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
Telephone: (415) 983-0900

If you need to update your contact information, or if you would like more information, or if you have any questions about the Settlement, you may also contact the Settlement Administrator, Phoenix Settlement Administrators, toll-free at (800) 523-5773. Please refer to the *Sadino v. Propark* Class Action Settlement. You may also contact Class Counsel at the address and phone number above if you need to update your contact information or if you have any questions whatsoever about the Settlement.

**DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR
INFORMATION REGARDING THIS SETTLEMENT**

DISPUTE FORM

Sadino et al. v. Propark et al.

Superior Court of the State of California, County of San Francisco
CASE NO. CGC-17-560186

I am a Settlement Class Member in the *Aaron Sadino and Anthony Johnson v. Propark et al.* case, and I wish to dispute my Estimated Settlement Payment described in the Notice of Proposed Class Action Settlement and Final Approval Hearing.

Print Full Name: _____

Address: _____

Last Four Digits of Social Security Number: xxx-xx-____ _

Please state the dates that you contend you worked for Propark during the Settlement Period:

Please provide any documentation you may have that you worked more pay periods than the number provided, in the Notice. The Settlement Administrator shall review any documentation you submit and consult with the Parties to determine whether an adjustment Pay Periods is warranted. If an adjustment is warranted, you will be promptly notified by the Settlement Administrator. The Settlement Administrator's determination of the amount of any Settlement Class Member's Pay Periods Worked shall be binding upon you and the Parties, and your Individual Settlement Payment will be calculated according to the Settlement Administrator's determination.

By: _____
Signature of Class Member

EXCLUSION FORM

Sadino et al. v. Propark et al.

Superior Court of the State of California, County of San Francisco

CASE NO. CGC-17-560186

I am a Settlement Class Member in the *Aaron Sadino and Anthony Johnson v. Propark et al.* case, and I wish to exclude myself from the Settlement Agreement described in the Notice of Proposed Class Action Settlement and Final Approval Hearing.

Print Full Name: _____
Address: _____
Phone Number: _____

I understand that by timely submitting this Exclusion Form I shall no longer be a Settlement Class Member, and I shall be barred from participating in any portion of the settlement; may not object to the settlement; and I shall receive no payment or benefits from the settlement. Notwithstanding the timely submission of this request for exclusion, I understand that I will still be bound by the settlement's release of my PAGA Claims. By opting out, I understand that I am effectively giving up my PAGA claims, without any possibility of compensation in the future for those claims. However, I understand that I will retain my right to pursue all non-PAGA claims arising out of the complaint.

By: _____
Signature of Class Member

OBJECTION FORM

Sadino et al. v. Propark et al.

Superior Court of the State of California, County of San Francisco
CASE NO. CGC-17-560186

I am a Settlement Class Member in the *Aaron Sadino and Anthony Johnson v. Propark et al.* case, and I wish to submit an objection to the Settlement Agreement described in the Notice of Proposed Class Action Settlement and Final Approval Hearing.

Print Full Name: _____
Address: _____
Phone Number: _____

State all legal and factual grounds on which you object to the Settlement:

Do you intend to appear at the Final Approval Hearing, either in person or through counsel? Yes____ or No____

If you intend to appear through counsel, you must identify your counsel by name, bar number, address, and telephone number below:

Counsel Name:_____Bar Number:_____
Counsel Address: _____
Counsel Phone number : _ _ _ _ _

By: _____
Signature of Class Member

*Este es un aviso autorizado por el tribunal. No es una solicitud de un abogado.
Sus derechos pueden verse afectados, tome o no alguna medida.*

Este aviso puede afectar sus derechos – Por favor, léalo atentamente

AARON SADINO y ANTHONY
JOHNSON, individualmente y en nombre de
todos los demás en situación similar,

Demandantes,

vs.

PROPARK AMERICA WEST, LLC; JOHN
STEELE; MICHAEL HEWITT; RYAN
DREISBACH; PRO PARK INC; RICHARD
DIPIETRO; TIM WILLEY; PATRICK
BOESHANS e incluyendo a 50
sujetos no identificados,

Demandados.

CASO NO. CGC-17-560186

**AVISO DE PROPUESTA DE ACUERDO DE
CONCILIACIÓN COLECTIVA Y
AUDIENCIA DE APROBACIÓN FINAL**

Audiencia final de aprobación de la conciliación

Fecha: 29 de junio de 2021

Hora: 9:00 AM

Departamento: 613

Ubicación: 400 McAllister Street
San Francisco, CA 94102

Juez: Honorable Andrew Y.S. Cheng

PARA: Todos los empleados actuales y anteriores de estacionamientos y aparcacoches (incluidos los asistentes de aparcacoches, asistentes de estacionamiento, cajeros, auditores nocturnos, supervisores y jefes de área) de Propark America West, LLC en California desde el 17 de julio de 2013 hasta el 2 de marzo de 2020, que no soliciten oportunamente la exclusión de la conciliación.

I. PROPÓSITO DEL AVISO

Usted está recibiendo este Aviso de Conciliación Propuesta y la Audiencia Final de Aprobación (el "Aviso") porque, de acuerdo con los registros de Propark America West, usted es un Miembro de la Demanda Colectiva Putativa en el caso descrito anteriormente, lo que significa que usted fue empleado por Propark America West y realizó servicios de estacionamiento/aparcacoches, incluyendo asistentes de estacionamiento/aparcacoches, cajeros, auditores nocturnos y supervisores/jefes de área) en cualquier momento desde el 17 de julio de 2013 hasta el 2 de marzo de 2020 y, por lo tanto, puede tener posibles reclamaciones de salarios y horas por supuestas violaciones de las pausas para comer o descansar y salarios no pagados en virtud de la ley de California, incluidas las supuestas violaciones de los estados de cuenta salariales, las violaciones relacionadas de la Ley de Competencia Desleal de California ("UCL") y las sanciones civiles relacionadas por dichas violaciones en virtud de la Ley del Fiscal General Privado del Código Laboral de California ("P.A.G.A."). Como tal, sus derechos pueden verse afectados por una propuesta de acuerdo alcanzada por los Demandantes Aaron Sadino y Anthony Johnson (los "Demandantes" o "Representantes de la Demanda Colectiva") y Propark America West, LLC y Propark Inc. ("Demandados" o "Propark"). Colectivamente, los demandantes y los demandados son referidos aquí como las "Partes".

Este aviso describe la demanda, le informa del acuerdo propuesto y le explica sus derechos en relación con el acuerdo propuesto en esta demanda. **Para participar en esta conciliación y recibir dinero no está obligado a realizar ninguna acción en este momento.**

ESTE AVISO NO ES UNA EXPRESIÓN DEL TRIBUNAL DE UNA OPINIÓN SOBRE EL FONDO DE CUALQUIER RECLAMACIÓN O DEFENSA O LA VERDAD DE CUALQUIERA DE LAS ALEGACIONES HECHAS POR LAS PARTES. EL TRIBUNAL SOLO HA DETERMINADO QUE EXISTEN PRUEBAS SUFICIENTES PARA SUGERIR QUE LA CONCILIACIÓN PODRÍA SER JUSTA, ADECUADA Y RAZONABLE. LA DETERMINACIÓN FINAL SOBRE LA EQUIDAD DE LA CONCILIACIÓN SE HARÁ EN LA AUDIENCIA DE APROBACIÓN FINAL EL 29 DE JUNIO DE 2021 A LAS 9:00 A.M.

II. ANTECEDENTES DE LA DEMANDA

Los demandantes alegan en general que los demandados no proporcionaron períodos de comida y descansos legales a las personas que fueron empleadas por Propark America West LLC y que realizaron servicios de estacionamiento/aparcacoches, incluyendo asistentes de estacionamiento/aparcacoches, cajeros, auditores nocturnos y supervisores/jefes de área. Los demandantes también alegan que los demandados no pagaron todos los salarios adeudados en circunstancias en las que no se proporcionaron períodos de comida y descansos legales. Los demandantes también alegan reclamaciones derivadas de sus reclamaciones por períodos de comidas y descansos, como la falta de pago oportuno de todos los salarios al momento de la separación del empleo, el no suministro de estados de cuenta salariales precisas, violaciones de la Ley de Competencia Desleal y violaciones de la Ley del Fiscal General Privado ("P.A.G.A.") en nombre de la Agencia de Desarrollo de la Fuerza Laboral.

Los demandados niegan las alegaciones de la demanda. Además, los demandados sostienen y creen que, en todo momento relevante, han pagado y tratado adecuadamente a los empleados de Propark, incluyendo a todos los miembros de la conciliación colectiva, en cumplimiento de todas las leyes y reglamentos aplicables.

El 8 de marzo de 2021, el juez Andrew Y.S. Cheng, que es el juez que preside la demanda, aprobó de forma preliminar una conciliación de la demanda para los miembros de la conciliación colectiva. El Tribunal designó preliminarmente a Matthew Righetti y Michael Righetti de Righetti Glugoski, P.C. como abogados de la demanda colectiva (en adelante, "Abogados de la demanda colectiva").

III. ¿CUÁLES SON SUS DERECHOS Y OPCIONES COMO MIEMBRO DE LA CONCILIACIÓN COLECTIVA?

Sus intereses como miembro de la conciliación colectiva están representados condicionalmente por los representantes de la demanda y por el abogado de la demanda colectiva designado por el Tribunal. Si no se excluye del Acuerdo de Conciliación, quedará obligado por los términos del Acuerdo de Conciliación y por cualquier sentencia definitiva que pueda dictar el Tribunal, y se considerará que ha renunciado a ciertas reclamaciones contra los demandados, como se describe a continuación y en el Acuerdo de Conciliación. Como miembro de la conciliación colectiva, usted no será responsable individualmente del pago de los honorarios de los abogados o del reembolso de los gastos del litigio, a menos que contrate a su propio abogado, en cuyo caso será responsable de los honorarios y costos de sus propios abogados.

A. Recibir un pago de la conciliación

Si desea participar en la conciliación y recibir su pago individual de la conciliación, no se le exige nada en este momento. Si el Tribunal otorga la aprobación final de la conciliación y usted califica como miembro de la conciliación colectiva, recibirá su pago de conciliación basado en el número de períodos de pago que haya trabajado como miembro de la conciliación colectiva durante el período de la demanda. También quedará obligado por los términos del acuerdo y liberará a las partes exoneradas de todas y cada una de las reclamaciones que pueda tener basadas en las alegaciones de la demanda, tal y como se establece en la Sección V.A, más adelante, y en el acuerdo de conciliación.

B. Objeción a la conciliación

Puede solicitar al Tribunal que rechace la aprobación de la conciliación **completando y presentando el Formulario de Objeción adjunto** al Administrador de la Conciliación en la dirección indicada más abajo o presentándose personalmente o a través de un abogado en la Audiencia Final de Aprobación el 29 de junio de 2021 a las 9:00 a.m. en el Departamento 613 del Tribunal Superior de California, Condado de San Francisco, 400 McAllister Street, San Francisco CA 94102. Los formularios de objeción por escrito deben tener el sello postal del **22 de mayo de 2021** o antes. Su formulario de objeción debe incluir (1) su nombre completo, (2) su dirección, (3) su número de teléfono, (4) todos los fundamentos de hecho y de derecho de su objeción, (5) una declaración sobre si tiene la intención de comparecer en la audiencia de aprobación final, ya sea en persona o a través de un abogado, y, si lo hace a través de un abogado, una declaración que identifique a su abogado con su nombre, número de colegiado, dirección y número de teléfono y (6) su firma (independientemente de si está representado por un abogado).

Para objetar al acuerdo, o a cualquier parte del mismo, por escrito, su objeción debe ser enviada por correo al administrador de la conciliación con fecha de sello postal del **22 de mayo de 2021** o anterior, a la siguiente dirección:

Sadino et al. v. Propark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

Si desea ser escuchado sobre su objeción por el Tribunal, por favor indique un aviso de su intención de comparecer en la Audiencia Final de Aprobación, pero en cualquier caso puede comparecer y ser escuchado en la Audiencia Final de Aprobación.

NO LLAME POR TELÉFONO AL TRIBUNAL

C. Excluirse de la conciliación

Si reúne los requisitos para formar parte de la conciliación colectiva pero no desea liberar ninguna reclamación contra las Partes Exoneradas y no desea recibir un pago, puede excluirse (en otras palabras, puede "optar por no participar") **completando y presentando el Formulario de Exclusión adjunto**. Su formulario de exclusión debe contener la siguiente información: (1) su nombre completo, (2) su dirección, (3) su número de teléfono y (4) su firma, incluso si está representado por un abogado. **Su Formulario de Exclusión debe tener el sello postal del 22 de mayo de 2021 o antes, y debe enviarse por correo a:**

Sadino et al. v. Propark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

Cualquier miembro de la demanda colectiva putativa que presente una solicitud de exclusión de la conciliación oportunamente, una vez recibida por el administrador de la conciliación, dejará de ser un miembro de la conciliación colectiva, no podrá participar en ninguna parte de la conciliación y no recibirá ningún beneficio de la conciliación. A pesar de la presentación oportuna de esta solicitud de exclusión, entiendo que seguiré estando obligado por la exención del acuerdo de mis reclamaciones P.A.G.A. Al optar por la exclusión, entiendo que estoy renunciando efectivamente a mis reclamaciones P.A.G.A., sin ninguna posibilidad de compensación en el futuro por dichas reclamaciones. Sin embargo, entiendo que conservaré mi derecho a presentar todas las reclamaciones no relacionadas con P.A.G.A. que surjan de la queja. Usted debe considerar consultar con un abogado de su elección, sin demora, si desea perseguir sus propias reclamaciones. Si presenta una solicitud de exclusión oportuna y válida, no podrá presentar una objeción a la conciliación ni recibir un pago de conciliación, y se considerará que ha renunciado a cualquier derecho o beneficio en virtud del acuerdo de conciliación. Si presenta tanto una objeción como una solicitud de exclusión válida y oportuna, la solicitud de exclusión prevalecerá sobre la objeción, por lo que esta será ignorada.

D. Impugnar el pago de la conciliación estimada

Sobre la base de estimaciones preliminares, el monto neto del pago del acuerdo que usted recibiría sería de aproximadamente [inserte el pago estimado], que es el monto neto después de las deducciones de los honorarios de los abogados, los costos del litigio, las indemnizaciones de servicios para los demandantes, los gastos de administración y los pagos correspondientes a P.A.G.A., como se mencionó anteriormente. Según los registros de Propark, usted trabajó un total de [___] períodos de pago como miembro de la conciliación colectiva para el demandado.

Si desea impugnar la determinación de su número de períodos de pago según lo establecido anteriormente, debe completar y presentar el Formulario de Impugnación adjunto al administrador de la conciliación **con matasellos no posterior al 7 de mayo de 2021 a la siguiente dirección:**

Sadino et al. v. ProPark Settlement Administration
PHOENIX SETTLEMENT ADMINISTRATORS
P.O. Box 7208, ORANGE, CA 92863

Debe incluir su nombre completo, su dirección actual, los últimos cuatro dígitos de su número de seguridad social, las fechas en las que afirma haber sido empleado por Propark y el número de períodos de pago que afirma haber trabajado para Propark durante el período de la conciliación. Por favor, proporcione cualquier documentación que pueda tener que demuestre que trabajó más períodos de pago que el número proporcionado en este aviso. El administrador de la conciliación revisará cualquier documentación que usted presente y consultará con las Partes para determinar si se justifica un ajuste de los períodos de pago. Si se justifica un ajuste, el Administrador del Acuerdo se lo notificará de inmediato. La determinación del administrador de la conciliación de la cantidad de períodos de pago trabajados de cualquier miembro del acuerdo de conciliación será vinculante para usted y las partes, y su pago individual de la conciliación se calculará de acuerdo con la determinación del administrador de la conciliación.

E. No tomar acción

Si no toma acción, recibirá su pago individual de la conciliación, **y estará obligado por los términos de la conciliación y exonerará a las Partes Exoneradas de todas y cada una de las reclamaciones que pueda tener basadas en las alegaciones de la demanda**, tal como se establece en la Sección V.A, a continuación, y en el acuerdo de conciliación.

IV. RESUMEN DE LOS TÉRMINOS DE LA CONCILIACIÓN PROPUESTA

Este aviso proporciona un resumen de los términos básicos de la conciliación propuesta. Si desea una copia del acuerdo de conciliación, póngase en contacto con los abogados de la demanda en la dirección indicada a continuación o visite el sitio web de la conciliación en:

www.PhoenixClassAction.com/ProparkCaliforniaEmployeeSettlement.

A. Definición de miembro de la conciliación colectiva

El Tribunal certificó, únicamente a efectos de la conciliación, la conciliación colectiva, tal y como se ha definido anteriormente.

B. Condiciones de la conciliación propuesta

La conciliación total que pagarán los demandados será de un millón quinientos mil dólares (\$1,500,000.00) y cualquier interés acumulado (el "Importe total de la conciliación"). Del monto total de la conciliación, antes de que se calcule la parte de cada miembro de la conciliación colectiva como se describe a continuación, se harán deducciones del total para el pago de los honorarios de los abogados aprobados por el Tribunal (\$525,000.00) y los costos (\$75,000.00), para los incentivos de los representantes de la demanda colectiva que se pagarán a los demandantes que se presentaron para dirigir la demanda (\$20,000.00 cada uno), así como para el costo del administrador de la conciliación para administrar la conciliación (\$42,500.00), y también para la parte de las sanciones pagadas al Estado de California en virtud de la ley P.A.G.A. (es decir, el pago correspondiente a la P.A.G.A.). Las Partes han designado \$40,000.00 del monto total de la conciliación como pago de sanciones civiles en virtud de la P.A.G.A., de los cuales el 75% de esa cantidad se pagará a la Agencia de Desarrollo de la Fuerza Laboral con el monto total de la conciliación, y el 25% restante formará parte de la distribución a los miembros de la conciliación colectiva. La cantidad que queda después de estas deducciones aprobadas por el Tribunal se denomina en el presente documento Fondo de la Conciliación Neta. En el fondo de la conciliación neta se incluyen específicamente los impuestos sobre las nóminas de los empleados que se pueden deber como resultado de los pagos que se harán a los miembros de la conciliación colectiva.

El administrador de la conciliación distribuirá los importes del acuerdo en un máximo de tres (3) distribuciones. La primera distribución tendrá lugar dentro de los treinta (30) días siguientes a la fecha límite de primer pago. La segunda distribución tendrá lugar entre los trescientos sesenta y cinco (365) y los trescientos noventa y cinco (395) días posteriores a la fecha límite de primer pago. La tercera distribución tendrá lugar dentro de los dos (2) años siguientes al Primer Plazo

de Pago.

Como se ha indicado anteriormente, el acuerdo total es de \$1,500,000.00, más los intereses descritos, que serán pagados en su totalidad por los demandados si el Tribunal aprueba la conciliación. En este caso, se espera que el fondo de conciliación neta sea de aproximadamente \$812,500.00 según las estimaciones preliminares. Ningún dinero revertirá a los demandados.

C. Tratamiento fiscal de los pagos de la conciliación

El pago la conciliación realizado a cada miembro de la conciliación colectiva se repartirá de la siguiente manera: (a) el 50% para el pago de los salarios supuestamente no pagados, incluidos todos los impuestos sobre la nómina de los empleados, las retenciones y las deducciones (la "Parte de los salarios brutos"), y (b) el 50% para el pago de los daños y perjuicios no salariales supuestamente adeudados, los daños y perjuicios liquidados y/o legales, el pago de las sanciones supuestamente adeudadas y el pago de los intereses supuestamente adeudados (la "Parte no salarial"). Las partes del empleador de los impuestos sobre la nómina de la Porción de Salarios Brutos de los pagos de la conciliación a los miembros de la conciliación colectiva **no** se pagarán con el fondo de conciliación neta. Los miembros de la conciliación colectiva reconocen que los demandados no se comprometen a asesorarlos con respecto a las consecuencias fiscales de esta conciliación. Los abogados de la demanda colectiva tampoco están asesorando a los miembros de la conciliación colectiva ni a los demandantes con respecto a ninguna consecuencia fiscal.

D. Fondos no reclamados

Si alguna parte del monto total de la conciliación no se distribuye satisfactoriamente a los miembros de la conciliación colectiva (*es decir*, si los cheques no se cobran o son devueltos como imposibles de entregar), después de la Fecha de Anulación, el administrador de la conciliación anulará el cheque y retendrá el monto no reclamado, que se devolverá al monto total de la conciliación y se incorporará al siguiente desembolso del Pago Individual de la Conciliación. Una vez que haya pasado la Fecha de Anulación de los cheques del tercer pago individual de la conciliación, el administrador de la conciliación dirigirá dichos fondos no reclamados, de conformidad con la legislación vigente de California, al fondo de propiedad no reclamada de la oficina de controladores del Estado de California, para que se conserve allí en nombre y en beneficio de dichos miembros de la clase de acuerdo con las leyes de confiscación de California.

V. EFECTO DE LA CONCILIACIÓN

A. Derechos y reclamaciones exoneradas

Las "reclamaciones exoneradas" con respecto a las "partes exoneradas" (definidas a continuación) son todas las reclamaciones, cargos, quejas, gravámenes, demandas, causas de acción, obligaciones, daños y perjuicios y responsabilidades que cada miembro participante de la conciliación colectiva tenía, tiene ahora o puede reclamar en el futuro contra las partes exoneradas que se hicieron valer en la demanda, o que podrían haberse hecho valer en la demanda sobre la base de los hechos, circunstancias, transacciones, eventos, sucesos, actos, revelaciones, estados de cuenta, omisiones o incumplimientos que se alegan en la demanda, independientemente de que tales reclamaciones surjan en virtud de la ley estatal y/o local, estatuto, ordenanza, reglamento, derecho común u otra fuente de derecho ("las reclamaciones exoneradas"). Las reclamaciones exoneradas incluyen específicamente las reclamaciones por: Artículos 201-204, 210, 226, 226.3, 226.7, 229, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1 y 1198 del Código Laboral; las reclamaciones incorporadas o relacionadas que se hagan valer a través del Código de Negocios y Profesiones de California § 17200; y las reclamaciones incorporadas o relacionadas que se hagan valer a través de P.A.G.A. Nada en este Párrafo tiene la intención de exonerar reclamos bajo cualquier ley federal, estatal y/o local, estatuto, ordenanza, regulación, derecho común, u otra fuente de ley que surja de hechos fuera de los alegados en la queja, específicamente violaciones potenciales no relacionadas con la falta de proveer legalmente períodos de comida y/o descansos. Las "reclamaciones exoneradas" se exoneran desde el 17 de julio de 2013 hasta el 2 de marzo de 2020. "Las Partes Exoneradas" incluyen a los demandados y a cada una de sus subsidiarias, funcionarios, directores, miembros, socios, propietarios, accionistas, empleados, exempleados, agentes, sirvientes, abogados, cesionarios, afiliados, contratistas independientes, voluntarios, predecesores, sucesores, compañías y organizaciones matrices, aseguradores, y todas y cada una de las otras personas, firmas y corporaciones en las que los demandados puedan tener un interés.

Los representantes de la demanda colectiva están proporcionando una exención general más amplia de todas y cada una de las reclamaciones que puedan tener contra las otras partes exoneradas.

VI. AUDIENCIA FINAL DE APROBACIÓN DE LA CONCILIACIÓN

El Tribunal celebrará una audiencia final de aprobación el 29 de junio de 2021 a las 9:00 a.m. en el Departamento 613 del Tribunal Superior de California, Condado de San Francisco, 400 McAllister Street, San Francisco CA 94102, para determinar si el acuerdo debe ser aprobado definitivamente como justo, razonable y adecuado. También se pedirá al Tribunal que apruebe la solicitud de los abogados de la demanda colectiva de que se les reembolsen los honorarios de los abogados y los gastos y las indemnizaciones de servicio que se pagarán a los representantes de la demanda colectiva y los costos de administración del acuerdo. El abogado de la demanda colectiva puede presentar una respuesta por escrito a cualquier objeción al acuerdo de conciliación, o a la solicitud de honorarios de abogados, reembolso de gastos e incentivos de los representantes de la demanda. La audiencia puede continuar sin previo aviso a los miembros de la conciliación colectiva. No es necesario que usted comparezca en esta audiencia a menos que haya presentado oportunamente una objeción, e incluso en ese caso, solo si desea que el Tribunal lo escuche sobre su objeción. No se proporcionará ni se requerirá ningún otro aviso de la entrada de las órdenes y/o sentencias que conceden o están relacionadas con la aprobación final del acuerdo, pero usted puede revisar dichas órdenes o sentencias en el sitio web de la conciliación.

VII. INFORMACIÓN ADICIONAL/SITIO WEB

Información importante y los documentos presentados en relación con el acuerdo están disponibles en el sitio web del acuerdo: www.PhoenixClassAction.com/ProparkCaliforniaEmployeeSettlement

Los alegatos y otros registros relativos a la demanda también se pueden revisar en cualquier momento durante el horario de trabajo habitual en la Oficina del Secretario del Tribunal Superior de California, Condado de San Francisco, situada en The Clerk's Office - Public Viewing Room, 400 McAllister St., Room 103 San Francisco, CA 94102-4514, Servicio de Atención al Cliente: (415) 551-3802.

También puede acceder gratuitamente al expediente completo del caso en <https://www.sfsuperiorcourt.org/online-services>). Al llegar al sitio web, haga clic en el enlace "Case Query". A continuación, introduzca los seis últimos dígitos numéricos del caso: 560186. Será llevado al "Registro de Acciones".

Se aconseja a los miembros de la demanda colectiva que se pongan en contacto con los abogados de la demanda colectiva o que revisen el expediente del Tribunal para confirmar que la fecha de la audiencia sobre la aprobación final no ha sido modificada.

Los abogados de la demanda colectiva son los siguientes:

RIGHETTI GLUGOSKI, P.C.
Matthew Righetti, Esq.
Michael Righetti, Esq.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
Teléfono: (415) 983-0900

Si necesita actualizar su información de contacto, o si desea obtener más información, o si tiene alguna pregunta sobre el Acuerdo, también puede ponerse en contacto con el administrador de la conciliación, Phoenix Settlement Administrators, llamando al número gratuito (800) 523-5773. Por favor, consulte la Conciliación de Acción Colectiva *Sadino v. Propark*. También puede ponerse en contacto con los abogados de la demanda colectiva en la dirección y el número de teléfono indicados anteriormente si necesita actualizar su información de contacto o si tiene alguna pregunta sobre la conciliación.

**NO LLAME POR TELÉFONO AL TRIBUNAL O A LA OFICINA DEL SECRETARIO
PARA OBTENER INFORMACIÓN SOBRE ESTA CONCILIACIÓN**

FORMULARIO DE IMPUGNACIÓN

Sadino et al. v. Propark et al.

Corte Suprema del Estado de California, Condado de San Francisco CASO NO. CGC-17-560186

Soy un Miembro del Acuerdo Colectivo en el caso *Aaron Sadino y Anthony Johnson v. Propark et al.*, y deseo impugnar mi Pago Estimado del Acuerdo descrito en el Aviso de Acuerdo Propuesto de la Demanda Colectiva y Audiencia Final de Aprobación.

Nombre completo en letra de imprenta: _____

Dirección: _____

Últimos cuatro dígitos del número de seguro social: xxx-xx-_____

Por favor, indique las fechas que usted afirma que trabajó para Propark durante el Período del Acuerdo:

Por favor, incluya cualquier documentación que tenga donde indique que trabajó más períodos que el número provisto en el Aviso. Las Partes del Acuerdo revisarán toda la documentación que presente y consultarán entre ellas para determinar si se puede realizar el ajuste de Períodos de Pago. Si el ajuste se realiza, se le notificará de inmediato a través del Administrador del Acuerdo. La decisión del Administrador del Acuerdo sobre el monto de cualquier Período de Pago Trabajado de los Miembros del Acuerdo Colectivo será vinculante entre usted y las Partes, y su Monto Individual del Acuerdo será calculado de acuerdo a la decisión del Administrador del Acuerdo.

Por: _____
Firma del Miembro del
Colectivo

FORMULARIO DE EXCLUSIÓN

Sadino et al. v. Propark et al.

Corte Suprema del Estado de California, Condado de San Francisco CASO NO. CGC-17-560186

Soy un Miembro del Colectivo en el caso *Aaron Sadino y Anthony Johnson v. Propark et al.*, y deseo ser excluido del Acuerdo Colectivo descrito en el Aviso de Acuerdo Propuesto de la Demanda Colectiva y Audiencia Final de Aprobación.

Nombre completo en letra de imprenta: _____

Dirección: _____

Teléfono: _____

Entiendo que al ingresar a tiempo este Formulario de Exclusión, dejaré de ser un Miembro del Colectivo del Acuerdo y no participaré en ninguna porción del mismo, no podré objetar el acuerdo y no recibiré pagos ni beneficios. Independientemente del ingreso oportuno de esta solicitud de exclusión, entiendo que seguiré estando vinculado a la renuncia de mis reclamaciones PAGA del acuerdo. Al excluirme, entiendo que renuncio a mis reclamaciones PAGA, sin posibilidad de compensación en el futuro por las mismas. Sin embargo, entiendo que mantendré mis derechos de presentar reclamaciones no relacionadas a PAGA en relación a la demanda.

Por: _____
Firma del Miembro del
Colectivo

FORMULARIO DE OBJECCIÓN

Sadino et al. v. Propark et al.

Corte Suprema del Estado de California, Condado de San
Francisco CASO NO. CGC-17-560186

Soy un Miembro del Colectivo del Acuerdo en el caso *Aaron Sadino y Anthony Johnson v. Propark et al.*, y deseo ingresar una objeción al Acuerdo Colectivo descrito en Aviso de Acuerdo Propuesto de la Demanda Colectiva y Audiencia Final de Aprobación.

Nombre completo en letra de imprenta: _____

Dirección: _____

Teléfono: _____

Incluya todos los fundamentos jurídicos y fácticos por los cuales objeta el Acuerdo:

¿Pretende comparecer en la Audiencia Final de Aprobación, ya sea en persona o mediante su abogado? Sí___o No ___

Si usted pretende comparecer mediante su abogado, debe incluir su nombre, número de colegiado, dirección, y número de teléfono a continuación:

Nombre del abogado:_____Número de Colegiado: _____

Dirección del abogado:

Teléfono del abogado: _ _ _ _ _

Por: _____

Firma del Miembro del
Colectivo

Exhibit B



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	3,522
Opt Out Rate	0%
Opt Outs Received	0
Total Class Claimants	3,522
Subtotal Admin Only	\$43,697.00

WILL NOT EXCEED \$42,500.00

May 7, 2021

Case: Sadino et al. v. Propark et al.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$100.00	3	\$300.00
Programming Database & Setup	\$100.00	3	\$300.00
Toll Free Setup*	\$140.00	1	\$140.00
Call Center & Long Distance	\$2.00	352	\$704.40
NCOA (USPS)	\$0.15	3,552	\$532.80
Total			\$1,977.20

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Translation

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$105.00	3	\$315.00
Data Merge & Duplication Scrub	\$0.15	3,522	\$528.30
Notice Packet & Opt-Out Form	\$2.00	3,522	\$7,044.00
Estimated Postage (up to 1 oz.)	\$0.55	3,522	\$1,937.10
Language Translation	\$0.25	6,000	\$1,500.00
Check Reminder Postcard & Postage	\$0.85	2,000	\$1,700.00
Total			\$13,024.40

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$55.00	3	\$165.00
Skip Tracing Undeliverables	\$0.75	80	\$60.00
Remail Notice Packets	\$0.85	51	\$43.35
Estimated Postage	\$0.55	51	\$28.05
Programing Undeliverables	\$50.00	2	\$100.00
Total			\$396.40

Database Programming / Processing Opt-Outs, Deficiencies or Disputes

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$100.00	4	\$400.00
Non Opt-Out Processing	\$200.00	1	\$200.00
Case Associate	\$55.00	3	\$165.00
Opt-Outs/Deficiency/Dispute Letters	\$5.00	0	\$0.00
Case Manager	\$85.00	5	\$425.00

Total	\$1,190.00
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Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$100.00	6	\$600.00
Disbursement Review	\$100.00	6	\$600.00
Programming Manager	\$95.00	4	\$380.00
QSF Fees, Bank Account & EIN	\$75.00	4	\$300.00
Check Run Setup & Printing	\$100.00	4	\$400.00
Mail Class Checks, W2 and 1099 *	\$1.00	10,566	\$10,566.00
Estimated Postage Checks, W2 and 1099 (3 years x 3,522 Class Members)	\$0.50	10,566	\$5,283.00
Total			\$18,129.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$100.00	6	\$600.00
Remail Undeliverable Checks (Postage Included)	\$1.50	200	\$300.00
Case Associate	\$55.00	6	\$330.00
Reconcile Uncashed Checks	\$85.00	10	\$850.00
Conclusion Reports	\$115.00	5	\$575.00
Case Manager Conclusion	\$85.00	5	\$425.00
Final Reporting & Declarations	\$115.00	5	\$575.00
Uncashed Check QSF Tax Filing	\$150.00	5	\$750.00
IRS & QSF Annual Tax Reporting * (State Tax Reporting Included)	\$1,525.00	3	\$4,575.00
Total			\$8,980.00

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total:	\$43,697.00
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EXHIBIT 7

Matthew Righetti, (State Bar No. 121012)

matt@righettilaw.com

Michael Righetti, (State Bar No. 258541)

mike@righettilaw.com

RIGHETTI GLUGOSKI, P.C.

220 Halleck Street, Suite 220

San Francisco, California 94129

Telephone: (415) 983-0900

Telefax: (415) 397-9005

Attorneys for Plaintiff

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

AARON SADINO and ANTHONY
JOHNSON, individually, and on behalf of all
others similarly situated,

Plaintiff,

v.

PROPARK AMERICA WEST, LLC; JOHN
STEELE; MICHAEL HEWITT; RYAN
DREISBACH; and DOES 1 through 50,
inclusive,

Defendants.

Case No. CGC-17-560186

**DECLARATION OF PLAINTIFF
AARON SADINO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, LITIGATION
COSTS, AND CLASS
REPRESENTATIVE ENHANCEMENT
AWARDS**

1 I, Aaron Sadino, declare:

2 1. I am one of the named plaintiffs in this action, and I am over eighteen years of age.
3 I have personal knowledge of the matters set forth herein, and I would and could testify thereto if
4 called as a witness herein. I spent upwards of 15 hours over four days reviewing my records from
5 this case and drafting this statement personally. I wrote it myself, and then I worked with my
6 counsel for approximately two additional hours to revise it before filing with the Court. I detail
7 the natural course of events followed by a total of the hours and expenses that I accumulated that
8 are related to each major event.

9 2. Over the course of the past five years, I have exhausted a vast amount of time and
10 energy fighting to hold Propark accountable for what I believed to be illegal labor practices, and
11 throughout the endeavor I kept accurate time and expense records detailing my efforts helping with
12 the case. I spent 271.5 hours working hand-in-hand with Righetti Glugoski P.C. over the course
13 of the case. I have also spent at least \$740.00 in expenses. In addition to dedicating time and
14 money towards this lawsuit, I have suffered some personal losses. After I started this effort, I felt
15 like I had to quit my job because quite frankly it was too stressful for me to conduct litigation
16 against my current employer. My colleagues reported to me that Propark supervisors were telling
17 my coworkers that I was trying to bankrupt the company, so all the friends I had made during my
18 decade of working at Propark stopped talking to me. Even my closest friend who at one time made
19 me Godfather to his daughter hasn't talked to me in over a year as a result of this lawsuit.

20 3. After fighting what felt like an "uphill battle" since 2016, I was overjoyed that we
21 were able to come to an equitable settlement agreement that would compensate thousands of
22 employees that were denied minimum working protections while working for Propark. The
23 employees that I speak of are mostly made up of immigrants from countries as close as Mexico
24 and as far away as Ethiopia. They are hard-working, god fearing, and loyal. I consider them to be
25 some of the best people that I have ever met in my life. I would like to describe the events that led
26 to this lawsuit and I would appreciate it if you would consider them when you are making your
27 decision regarding my service award to the class.

28 4. I worked for Propark for over a decade. Over the course of that decade I routinely
had to work more than six hours before I could take a lunch break. In 2016 I learned that Propark

1 was supposed to be compensating us for late or missed meal breaks. Due to past experiences
2 dealing with Propark's HR department, I believed that my best avenue to recoup the compensation
3 that was owed to me was to file a complaint with the San Francisco Labor Department or try to
4 find a lawyer that had the resources and expertise to fight a company as large as Propark. I was
5 hopeful that the San Francisco Labor Department would provide me with relief, and I was told that
6 I would be able to set up an initial mediation hearing very quickly.

7 5. So, over the course of the next few weeks I printed out all 750 days on my
8 timecards, which represented the days that I had worked over the past three years, and
9 painstakingly went through every day on those time cards. I highlighted each day where I was not
10 able to go to lunch within the appropriate time frames. I then printed out all 78 paystubs from the
11 past three years and crossed referenced them with the appropriate days on my timecards. I then
12 created a spreadsheet that matched my missed meal breaks with my paystubs. This spreadsheet
13 showed that for each two-week period that was represented on my paycheck, I was never paid for
14 the missed meal breaks that I had highlighted on my timecards. The total of missed meal breaks
15 came to 579 missed meal breaks. This total does not include the two 15-minute breaks that we are
16 also supposed to get every day. I believe my missed 15-minute breaks exceeded my missed meal
17 breaks because I almost never was able to take two 15 minute breaks during a shift. I took this
18 paperwork and filed it with a complaint to the San Francisco Labor Department in November of
19 2016. I was assigned a mediation hearing and began to prepare. I went to the hearing on May 1st
20 of 2017 by myself because I could not afford a lawyer to represent me. Despite having "black and
21 white" proof that I had not been compensated for any of my missed meal or rest breaks, the Human
22 Resources manager declined to offer me any compensation. I was very disappointed with this
23 meeting because the city representative then told me that my case would be sent to another
24 department. I believed that my case would fall victim to the black hole of bureaucracy and would
25 never see the light of day.

- 26 • **Mediation Hearing** - I estimate that this initial mediation at the labor board took about 24
27 hours of my time. 4 hours to go downtown and file the initial complaint. 4 hours to go
28 downtown and attend the mediation hearing. 4 hours to print out all my paystubs and
timecards. 8 hours to go through all 750 days on my timecards and find the missed meal

1 breaks and match those days to each of the 78 pay stubs. 4 hours to create the spreadsheet
2 that showed the totals of the missed meal breaks.

3
4 6. Although I was disheartened by this outcome I was determined to press on and
5 pursue the much longer and harder course of action by searching for a lawyer. Since I didn't have
6 any money, I knew that my only chance to secure representation was to find a class action lawyer.
7 I also knew that this case would be eligible to be classified as a class action case because over the
8 course of the more than ten years that I worked for Propark, everyone that I worked with suffered
9 the same as I had. Together, with the right law firm, we may have a chance. So, I started searching.
10 I called several firms. After talking to many people I finally was able to reach Mike Righetti. I
11 outlined the fundamentals of the case and set up a meeting with Mr. Righetti. I put together all my
12 timecards, schedules, pay stubs, and other relevant documents and brought them down to his office
13 for an initial consultation. Mr. Righetti agreed with my assessment of my employment situation
14 at Propark, and after further discussions I agreed to retain his firm to represent me.

- 15
16 • **Secure Legal Representation** - I estimate that finding and securing a law firm to represent
17 me took at least 16 hours. It took at least 8 hours to research and talk to the local firms that
18 handle class action lawsuits. This included finding their websites, talking to their
19 secretaries, answering questions about my case, and responding to callbacks. It took 4
20 hours to go downtown and meet with Mr. Righetti at his office to discuss and outline the
21 case. It took at least 4 hours for me to read and understand the contract that Mr. Righetti
22 sent to me to make his firm my legal representative.

23
24 7. After retaining Righetti Glugoski P.C. I began collecting and organizing all relevant
25 documents and provided Mr. Righetti with a copy of our employee handbook and our collective
26 bargaining agreement to make sure that I hadn't signed something that prohibited class action
27 lawsuits. I sat down and read our entire 56-page employee handbook and our entire union
28 handbook. I went through each with a fine-toothed comb to double check that class action lawsuits
were not prohibited. I also went onto our employee website to make sure that nothing was stated

1 on the website that prohibited class action lawsuits. After reviewing all three sources, I concluded
2 that class action lawsuits were not prohibited.

- 3
4 • **Review employee documentation concerning class action lawsuits** - This process took
5 about 7 hours. 3 hours for the employee handbook. 3 hours for the union handbook. 1
6 hour to review the employee website.

7
8 8. Once we determined that there were no barriers to filing a lawsuit we got to work.
9 On June 20, 2017 Righetti Glugoski sent a PAGA letter to Propark which I also reviewed for
10 accuracy. Soon after that Mr. Righetti asked me to help provide information for the complaint that
11 we would file against Propark. On July 14, 2017 I provided the names of the three managers that
12 I believed were most closely tied to the case. I also laid out their culpability and the inner workings
13 of the company. This included detailing actions they had taken and the timelines in which those
14 actions were taken.

- 15
16 • **PAGA letter and Lead Defendants** - 5 hours total. 1 hour to read and understand the
17 PAGA letter. 4 hours to provide all the information that implicated the three lead
18 defendants.

19
20 9. The next relevant correspondence between me and Mr. Righetti took place on
21 September 6th of 2017. I gather information regarding 10 to 20 people that I had worked with at
22 the company that we could contact to investigate the claims and potentially gather witness
23 statements to show that everyone in the company was being forced to forgo their meal and rest
24 breaks. I immediately started to contact employees that were still working for Propark and former
25 employees of Propark. I also contacted our local Teamsters Union and apprised them of the
26 pending lawsuit. Retaliation was a serious concern among current employees and trying to track
27 down former employees was difficult, so as you can imagine, I expended considerable time and
28 effort trying to galvanize people to help with the lawsuit. I was able to get some momentum from
employees who said they were willing to support the case and received some schedules showing

1 that Propark was staffing in a way that made it impossible for employees to take meal and rest
2 breaks. I forwarded that information on to Mr. Righetti. I also helped locate Michael Hewitt, one
3 of the named defendants in the case, who had left Propark and was working for a different valet
4 company.

- 5
6 • **Assist with declarations** - 8 hours total. 6 hours contacting current and former employees
7 and providing information about the case. 1 hour gathering and reviewing the schedules
8 before passing them on to Mr. Righetti. 1 hour locating the current employer of Michael
9 Hewitt.

10
11 10. As the lead plaintiff in this case it has always been important that I read and
12 understand all the court documents that are filed, so that I can be as effective as possible in helping
13 the class members as well as Righetti Glugoski in this case. On October 20th of 2017, Propark
14 filed a motion to move the case to federal court. I read the 15-page motion I then read the 24-page
15 document that we responded with on December 14, 2017. I also read their response to our motion
16 on January 16, 2018 that was split into two documents that were 19 pages and 10 pages,
17 respectively. Finally, I read the 9 page "Order Granting Motion to Remand" on March 26, 2018.

- 18
19 • **Federal Court Motion** - 4 hours total. I read at a rate of about 20 pages per hour. This
20 sequence of events created about 80 pages of documents and it took me about 4 hours to
21 read and understand everything. .75 hours for the 15 page motion. 1.25 hours for our
22 response. 1.5 hour to read their motion on January 16th. 0.5 hours to read the Motion To
23 Remand.

24
25 11. Once the case was remanded back to Superior Court in California, Mr. Righetti
26 requested my assistance concerning requesting specific documents for discovery. This basically
27 encompassed the day-to-day operations of the company and where we could focus our discovery
28 to be most helpful with the case. This included specific names of procedures, locations, managers,
and employees that would prove our case as well as our schedules and our electronic time clock

1 information. After a couple of days of work compiling information, I answered Mr. Righetti's
2 request on April 4th of 2018 with all the information that he requested. Over the next several
3 months I corresponded with Mr. Righetti regularly by email and phone as we worked through our
4 initial discovery.

- 5
6 • **Assist with discovery** - Total of 8 hours. This is an estimate based on phone calls, emails,
7 document collection, etc.

8
9 12. My next substantial involvement came when Propark requested a mediation
10 meeting, and we set that up for September 7th of 2018. At this point, Propark had been very
11 resistant to providing discovery documents, so we requested at least a sample of locations,
12 employees, timecards, and payroll information for the mediation meeting. Before the mediation
13 meeting, I assisted as much as possible with information that would help Mr. Righetti put together
14 the mediation brief. I sent this information to my lawyers on August 27, 2018. It included
15 information about the three listed plaintiffs, the Teamsters Union, Proparks Human Resources
16 department, and the finances of running a valet operation. At this point in time I was in Montana
17 providing care for my parents, so in order to attend this mediation meeting I drove from Montana
18 to San Francisco, 1100 miles, on August 31st. I reviewed the 12-page mediation brief on
19 September 5th. I then left San Francisco at about 5 am on September 6th and drove down to Los
20 Angeles for the mediation meeting. I secured a room at a discount hotel at noon and worked the
21 rest of the day trying to decode the large stack of employee spreadsheets that Propark had dumped
22 on us the day before, well after the deadline that they had previously agreed to. I painstakingly
23 went through as much information as I could and compiled proof that not only were other
24 employees being forced to forgo their meal breaks, but that they were missing their breaks at a
25 higher rate than I was. I sent this information to Mr. Righetti at 6:39 pm and 8:48 pm on September
26 6th. The next day I attended and assisted with the mediation meeting. We could not come to a
27 settlement at that meeting. I then drove all the way back to San Francisco. I then drove another
28 1,100 miles back to Montana.

- **Mediation Meeting** - Total of 71 hours. 4 hours for the email on 8/27/2018. 20 hours to drive from Montana to San Francisco. My car gets about 25 miles to the gallon so I spend about \$150.00 on gas. Nothing for hotels because I slept in my car in rest stops. 1 hour to review the mediation brief. 8 hours to drive to Los Angeles from San Francisco. \$40.00 on gas. \$100.00 on a hotel room. 6 hours working to review and compile evidence from Propark Inc. supplied discovery information. 4 hours to attend and participate in the mediation meeting. 8 hours to drive back to San Francisco from Los Angeles. 20 hours to drive back to Montana from San Francisco. \$150.00 for gas.

13. After the mediation we moved forward with the lawsuit. I corresponded with my attorneys throughout September, October, and November about the case via email and telephone. I also offered my support concerning the depositions of Michael Hewitt and Ryan Dreisbach that were conducted on November 28th and 29th of 2018.

- **Assist with lawsuit** - 4 hours total consisting of emails, phone calls, etc.

14. On January 10th of 2019 Mr. Righetti sent me the depositions of John Steele and Lori Daniel. I read both in order to stay in the loop and be as helpful as I could with the case. John Steele's deposition was 136 pages long and Lori Daniels's deposition was 240 pages long.

- **Read depositions** - Total of 19 hours. 7 hours to read John Steele deposition. 12 hours to read Lori Daniels deposition.

15. From January of 2019 to October of 2019 my attorneys and I corresponded frequently, and I helped in any way that I could.

Assist with case - 4 hours total which consisted of phone calls, emails, etc.

16. During the first week of November 2019 I wrote a declaration supporting the

1 motion for class certification. At this time, I was still in Montana caring for my parents. Propark
2 notified me that I was ordered to appear for a deposition in San Francisco. I drove from Montana
3 to San Francisco again, 1100 miles, to appear for the deposition. In preparation for my deposition,
4 I read all of the depositions that had been conducted by my council, so that I could be as well
5 prepared for my own deposition as possible. This included reading the 187-page deposition of
6 Luis Garcia, the 108-page deposition of Michael Hewitt, the 138-page deposition of Ryan
7 Dreisbach, and the 151-page deposition of Patrick Boeshans. I also reread the previous depositions
8 that I had read from John Steel and Lori Daniels. In addition to that preparation, I also spent an
9 afternoon at Mr. Righetti's office in San Francisco walking through the procedures of how a
10 deposition is conducted and going over everything that could help the case. My deposition was
11 held on November 13, 2019. It took about 4 hours and I also stayed for the co-plaintiffs deposition
12 which took an additional 4 hours. On December 16th of 2019 I read the 148-page transcript of my
13 deposition and emailed Mr. Righetti to tell him that the transcript was accurate and that we did not
14 need to request any changes due to any mistakes committed by the transcriber.

- 15
16 • **Write declaration and depositions** - Total of 78.5 hours. 10 hours to write and revise my
17 declaration. 20 hours to drive from Montana to San Francisco. \$150.00 for gas for the
18 trip. 9 hours to read 187 page deposition of Luis Garcia. 5 hours to read 108 page
19 deposition of Michael Hewitt. 7 hours to read 138 page deposition of Ryan Dreisbach. 8
20 hours to read 151 page of Patrick Boeshans. I didn't include any hours in this section for
21 the time it took me to reread Lori Daniels and John Steeles depositions since I already
22 counted those hours from the first time I read their depositions. 4 hours for the preparation
23 work at Mr. Righetti's office on November 12th of 2019. 4 hours for my deposition on
24 November 13th of 2019. 4 hours to attend the deposition of the co-plaintiff in the afternoon
25 of November 13th of 2019. 7.5 hours to read and approve the transcript of my deposition.
26 20 hours to drive 1,100 miles back to Montana. \$150.00 for gas.

27
28 17. January of 2020 came with some good news. The parties had agreed to the terms
of a preliminary settlement which was memorialized in a memorandum of understanding. On

1 March 5th of 2020, I read the 8-page Memorandum of Understanding from Propark, and it looked
2 like everything would be wrapped up by April. Then, COVID-19 hit. Between April and August
3 of 2020 Propark tried to renegotiate the MOU. I corresponded with Mr. Righetti frequently
4 concerning this new development and helped in any way that I could. My attorneys filed an
5 8-page motion, that I read, to enforce the MOU on September 1st of 2020. On September 8th the
6 MOU was confirmed and I read the 8-page order.

- 7
- 8 • **MOU** - Total of 4 hours that consisted of going through all the processes of getting an
9 MOU.

10

11 18. After we got the order from the Court I received and reviewed the Settlement
12 Agreement. Between the order on September 8th of 2020 and March 9th of 2021 I read and reread
13 the 37-page settlement agreement with Propark each time it was amended.

- 14
- 15 • **Settlement Agreement** - Total of 4 hours that consisted of going through all the processes
16 of getting the settlement agreement.

17

18 19. Since the settlement agreement has been signed, I have reached out to my former
19 colleagues and offered myself as a resource if anyone needs to update any of their contact
20 information, mailing addresses, or have any general questions concerning the case or the settlement
21 agreement.

22 20. I have not been promised or guaranteed anything in connection with this settlement,
23 and I do not expect to receive anything from the settlement other than my pro rata share of the
24 settlement proceeds and whatever the Court awards me as a class representative enhancement.
25 Thank you for taking the time to read this declaration and to consider my request.

26

27 //

28 //

1 I declare under penalty of perjury under the laws of the state of California that the
2 foregoing is true and correct and that if called as a witness, I could competently testify to the same.
3 Executed on, May 5, 2021, in the City of Whitefish, Montana.

DocuSigned by:
Aaron Sadino
FF4951DD84744C6...

Aaron Sadino

EXHIBIT 8

1 Matthew Righetti, (State Bar No. 121012)

2 matt@righettilaw.com

3 John Glugoski, (State Bar No. 191551)

4 jglugoski@righettilaw.com

5 Michael Righetti, (State Bar No. 258541)

6 mike@righettilaw.com

7 RIGHETTI GLUGOSKI, P.C.

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10 Telephone: (415) 983-0900

11 Telefax: (415) 397-9005

12 Attorneys for Plaintiff

13 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF SAN FRANCISCO

15 AARON SADINO and ANTHONY
16 JOHNSON, individually, and on behalf of all
17 others similarly situated,

18 Plaintiff,

19 v.

20 PROPARK AMERICA WEST, LLC; JOHN
21 STEELE; MICHAEL HEWITT; RYAN
22 DREISBACH; and DOES 1 through 50,
23 inclusive,

24 Defendants.

Case No. CGC-17-560186

**DECLARATION OF PLAINTIFF
ANTHONY JOHNSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS, AND
SERVICE AWARDS**

1 I, Anthony Johnson, declare:

2 1. I am one of the named plaintiffs in this action, and I am over eighteen years of age.
3 I have personal knowledge of the matters set forth herein, and I would and could testify thereto if
4 called as a witness herein. I spent upwards of 12 hours over three days reviewing my records from
5 this case and drafting this statement personally. I wrote it myself, and then I worked with my
6 counsel for approximately two additional hours to revise it into the finished product you're reading
7 now.

8 2. I am one of the two plaintiffs in this action who has been appointed by the Court to
9 represent the class members, and I am filing this declaration in support of the motion for attorney's
10 fees, litigation costs and service awards. I have never been a class representative in any other class
11 action. I am a resident of California. I live on Hageman Ave. in Oakland.

12 3. My employment with Propark began in approximately August of 2001, and I am
13 still employed at Propark today. Throughout my entire career with Propark (approximately
14 eighteen years) I have worked as a parking/valet attendant on the graveyard shift by myself, which
15 typically starts around 11 p.m. until 7 a.m. The graveyard valet/parking attendant performs the
16 same general duties and responsibilities that the daytime valet/attendants perform, such as
17 parking/retrieving cars, monitoring security in the lot, collecting payment and other clerical tasks.
18 In addition, the graveyard valet/parking attendant performs a nighttime audit on the vehicles in the
19 parking lot/garage. As a graveyard attendant I was required to remain on duty during my entire
20 shift because at any time we might have to retrieve a vehicle for a customer or respond to security
21 issues. At each location where I have worked, it is not uncommon to have customers coming and
22 going at all hours of the night, especially those customers who are arriving from or departing to
23 one of the Bay Area's airports.

24 4. My first assignment with Propark starting in August of 2001 was as the
25 valet/attendant working the graveyard shift at the Serrano Hotel in San Francisco. My
26 understanding is that this was the first hotel/garage that Propark operated in California when it
27 expanded its business into the State. I worked at that location for approximately 4 or 5 years, and
28 I only worked the graveyard shift. Propark staffs all of the graveyard shifts with only one
attendant, and the lone attendant is responsible for the supervision of the lot/garage as well the cars

1 parked in it for the entire shift. When working the graveyard shifts, I was not permitted to leave
2 the premises for off-duty meal periods or rest breaks. I was expected to take my meal periods and
3 rest breaks while remaining on-duty. Propark did not provide me with any "on duty meal break
4 agreement" to sign at the Serrano Hotel – the first "On Duty Meal Break Agreement" I received
5 was in July of 2017. Despite having to remain on duty for all my meal periods and rest breaks, I
6 never received any additional "premium wages" associated with meal periods or rest breaks while
7 I worked graveyard at that location or any other.

8 5. As Propark expanded and started getting more contracts for parking services at
9 hotels/garages in San Francisco, I assisted Propark by setting up the graveyard valet/attendant
10 procedures so that the same nighttime inventory audits that I performed at the Serrano Hotel could
11 be performed by other graveyard attendants. A few examples of these garages and hotels include
12 the O'Farrell Garage, Clift Hotel, Prescott Hotel, Villa Florence Hotel, Warwick Hotel, the
13 Olympic Hotel, the Sir Francis Drake Hotel and the Argonaut Hotel. I assisted Propark setting up
14 the graveyard valet/attendant processes at each of these hotels and garages. At each of these
15 locations, Propark staffed the graveyard shift with only attendant despite the fact that California
16 law requires off-duty meal periods and rest breaks.

17 6. On June 09, 2010, a former employee Mark Kudrna filed a lawsuit in the above
18 Superior Court against the Defendant Propark America West, LLC. In that case, the plaintiff's
19 claims were similar to the claims I alleged in the above-entitled action. The case was assigned to
20 the Honorable John E. Munter Judge. A settlement was reached, which was preliminarily
21 approved by Judge Munter.

22 7. As an absent class member, I did not support the settlement. I felt that it provided
23 inadequate compensation for me and the other attendants, so I began researching ways that I could
24 voice my concern to the Court. I sought the assistance of an attorney, but I was not able to find
25 someone who would represent me in this endeavor; however, I did not give up. In August of 2013
26 I prepared and filed my own motion to object to the settlement without the assistance of a lawyer.
27 While I was researching statutes and case laws for my objection, I was in contact with my father
28 who was not well at that time. I explained to my dad that I was preparing an objection to bring out
the truth about the defendants and because I wanted to be compensated for my lost wages. In that

1 conversation my father told me, "son do what you have to do!" On August 07, 2013 I completed
2 my objection and supporting document to file in court. I called my mother that same day and
3 asked how my father was doing and that I wanted to talk to him since I had just completed drafting
4 my court documents. My mother told me that he was in pain, and she did not want to wake him
5 up, so I told her that I would call him the next day. On August 08, 2013 I received a call from my
6 mother saying that my father passed-away because of cancer. My mother explained to me that my
7 father did not want to tell me that he was dying from cancer because he did not want to pull me
8 away from the work I was doing to pursue my objection to the settlement, and my mother and
9 father knew that I would have dropped everything to travel to Detroit, Michigan to see them. This
10 was a very sad time for me and my family, but I lost the one chance to see my father before he
11 passed-away because I was fighting against the defendants to recover my lost wages. I am not
12 including this story for any reason other than to emphasize how important it was to me and my
13 family that I be treated fairly under the law.

14 8. On August 26, 2013 after returning from my father's funeral, I filed my objection
15 and supporting documents in the above-entitled court. On August 29, 2013 another former
16 employee Seth King filed his objection and the both of us went before The Honorable John E.
17 Munter on November 22, 2013 to argue that the settlement was unfair, and it would hurt the class-
18 members and deprive us of the lost wages owed to all class members in that case.

19 9. On April 24, 2014 The Honorable John E. Munter Judge overruled our objections
20 and approved the settlement. Mr. King and I were disappointed with the decision by the court and
21 on May 09, 2014 I prepared and filed a Notice of Filing of Notice of Appeal on all interested
22 parties. I prepared my appeal without the assistance of an attorney.

23 10. After all transcripts and the court records were submitted to The Court of Appeal State
24 of California First Appellate District Division Three, I prepared and filed the Appellants' Opening
25 Brief, and I argued the case before the Court of Appeal. I did all of this work without the assistance
26 of an attorney.

27 11. On January 28, 2015 the Court of Appeal upheld the lower courts order approving
28 that settlement agreement as fair and adequate. On April 02, 2015 the Court of Appeal remitted

1 the case back to the San Francisco Superior Court. I was disappointed with the result, but I
2 accepted it.

3 12. After losing the case in the Court of Appeal, On June 29, 2015 my mother passed-
4 away, but prior to her passing she encouraged me to keep fighting for my lost wages, which
5 inspired me continue. I thought about what my father told me to do, and I kept on trying to fight
6 the defendants for my loss wages. On October 16, 2015 Mr. King and I went back into San
7 Francisco Superior Court where the case had been reassigned to the Honorable Mary E. Wiss. I
8 argued to Judge Wiss that I still believed the settlement was unfair and that it should not be granted
9 final approval, but the court granted final approval anyway.

10 13. Despite the final approval of the Kudrna case, I continued to keep on fighting for
11 my own lost wages against the defendants. On November 23, 2016 I filed a claim with The Labor
12 Commissioner, State of California Department of Industrial Relations for: (1) Regular Wages, (2)
13 Overtime Wages, (3) Meal Period Wages, (4) Vacation Wages, (5) Business Expenses, and (6)
14 Interest, Sick-Days, Holiday, Medical, 401(k).

15 14. On January 25, 2019 the Labor Commissioner's Office scheduled a conference for
16 my case, and again I represented myself. Following the conference, the deputy at the labor board
17 asked me if I wanted to resubmit my claims and evidence back to the legal department for review
18 and to calculate what I was owed by the defendants. I stated yes that I wanted to submit my case
19 back to the legal department for review. To this day, I have not received any status of my claims
20 with the Labor Commissioner's office, and I understand that I am releasing all of those claims in
21 connection with the release I signed in this case.

22 15. While I was continuing my fight for my wages, I received a notice about a new case
23 filed against the defendants by Plaintiff Aaron Sadino, and I contacted the Righetti, Glugoski, P.C.,
24 about the case. I spoke with Attorney Michael Righetti. After learning about the case and after
25 sharing my own story with Mr. Righetti, he agreed to represent me, and I agreed to serve as a class
26 representative on behalf of the parking/valet attendants who worked solo graveyard shifts. I spent
27 several days over the course of the next two weeks (approximately 40 hours) to reorganize all of
28 my previous legal documents so I could share them with my counsel. I provided valuable
information to my attorneys that they used to support the claims in the amended complaint. I

1 understood that by joining the case as a proposed class representative I was putting the claims of
2 the class members ahead of my own, and I agreed not to do anything to jeopardize their rights
3 while serving as the class representative.

4 16. My role in the case was important because I represented a group of people who worked
5 graveyard shifts, and the other proposed class representative Aaron Sadino did not work graveyard
6 shifts. By joining the case I was providing the overall class with a suitable representative whose
7 claims were typical of the other graveyard attendants.

8 17. After joining the case, defendant propounded written discovery to me. I worked with
9 my lawyers to gather the information and answer their questions. I estimate that I spent 20-24
10 hours over the course of two weeks reviewing the questions, gathering documents, and meeting
11 with my counsel to prepare the responses, which I verified in September 24, 2019. Later on, I was
12 deposed by the defendants for an entire day. I spent approximately 30-40 hours in total in
13 connection with the deposition. I had to review my documents, meet with counsel, sit for a full-
14 day deposition, and review the transcript for accuracy, which I did.

15 18. The next major task that I worked on was in connection with the class certification
16 motion. I reviewed and revised a declaration with my attorney in support of the motion. I estimate
17 that I spent another 3-5 hours drafting, reading and revising my statement that was signed under
18 penalty of perjury.

19 19. Although I did not personally attend either mediation (I was not a plaintiff at the time
20 of the first mediation), I was actively involved throughout the day speaking with my counsel and
21 receiving updates during the second mediation. During the settlement negotiations that took place
22 thereafter I stayed in routine contact with Mr. Righetti and was involved every step of the way
23 while the terms of the MOU and Settlement Agreement were being negotiated. I provided my
24 approval or disapproval at various times and always with an eye towards protecting the rights of
25 the class members.

26 20. I was furious when the defendants tried to back out of the deal they negotiated in the
27 MOU by changing the settlement amount from \$1,500,000.00 to \$1,000,000.00. I declined to
28 accept their offer. My position was that we should fight to make sure we received the benefit of
the bargain we had negotiated in the MOU. I encouraged my attorney to fight for us against the

1 defendants when defendant refused to prepare a final settlement agreement, and I was proud when
2 we were victorious in holding defendants to the deal they negotiated.

3 21. I believe that this settlement is fair and adequate. First of all, it is six times larger
4 than the settlement that was approved by Judge Munter, to which I objected. I am proud to stand
5 behind this settlement, and I believe that Plaintiff Aaron Sadino and I were brave in coming
6 forward with our claims against the defendants. I was and remain a current employee, and it is not
7 comfortable to pursue litigation against your current employer, but I believed I was fighting for
8 justice to protect my rights and the rights of my fellow parking attendants.

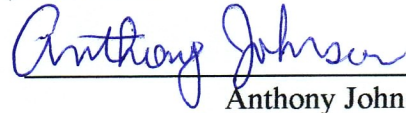
9 22. I am proud of the work that was done by Righetti and Glugoski, P.C. Mr. Righetti
10 believed in us, and he brought this cause of action against the defendants in an effort to seek justice
11 for the working-class citizens of California. It is my sincere belief that my attorneys and I have
12 earned the fee that we are requesting from the Court. I worked tirelessly over the past several
13 years to make sure this case was successful (and even more so if you include the time I spent
14 fighting for my wages prior to my involvement with this case). I estimate that the total amount
15 of time I spent in connection with this case is at least 250 hours. I stayed up to date on all filings.
16 I read all the documents that were filed in Court. I communicated with my lawyers on a regular
17 basis to make sure the case kept moving forward.

18 23. We came together in support of each other to seek justice and to fight for all the class
19 members that are owed wages they lost because of the defendants' behavior in this matter. The
20 attorney's fought hard for all of us and they deserve to be compensated for all of their work in
21 getting us a fair settlement against the defendants, and as you can see, I have been fighting the
22 defendants for eight (8) years for my lost wages. I understand that the amount of money I am
23 requesting is substantial as compared to the money that the class members will receive; however,
24 I feel that I earned the money by spending countless hours over the last several years in connection
25 with this case specifically. I am not requesting an enhancement award in connection with the work
26 I did prior to this case, but I felt that it was important for the Court to see how hard I've worked
27 and for how long I've been fighting for my wages.

28 24. In closing, I would like to say that I believe I deserve the service award because I never
lost sight of what my father told me before he died, "do what you got to do!" I never quit, and I

1 feel fortunate that I became involved in this matter with the assistance of responsible attorneys
2 who took pride in their work fighting for low-wage earners like myself. The service award that I
3 am requesting (\$20,000.00) does not come close to what I believe I am owed in unpaid wages, but
4 at least it's a respectable amount that will compensate me for my hard work in connection with
5 this case, which has served a great benefit to all of the class members. I have not been promised
6 nor do I expect to receive anything else from this case other than my pro rata share of the settlement
7 fund and whatever enhancement award the court awards me in connection with the hard work I
8 performed in helping Plaintiff Aaron Sadino and all class members in this case.

9 I declare under penalty of perjury under the laws of the state of California that the
10 foregoing is true and correct and that if called as a witness, I could competently testify to the same.
11 Executed on, May 05, 2021, in the City of Oakland, California.

12 
13 Anthony Johnson
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