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19 Anielka Rodríguez, and Putative Class

20
21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **FOR THE COUNTY OF ALAMEDA**
23

24 LORENA GÓMEZ and ANIELKA
25 RODRÍGUEZ, on their own behalf,
26 on behalf of others similarly situated
27 and the general public,

28 PLAINTIFFS,

vs.

MI PUEBLO SAN JOSE, INC., a
California corporation; BENJAMÍN
DE ANDA, an individual; and DOES
1 through 10, inclusive,

DEFENDANTS

CASE NO: RG 07354914

**DECLARATION OF DONN S. TAKETA IN
SUPPORT OF PLAINTIFFS' REVISED
NOTICE OF MOTION, AND MOTION FOR
ORDER:**

**(1) PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT;**

**(2) PROVISIONALLY CERTIFYING
SETTLEMENT CLASS;**

**(3) DIRECTING NOTICE OF CLASS
ACTION SETTLEMENT; AND**

**(4) SETTING A SCHEDULE FOR A FINAL
FAIRNESS HEARING**

DATE: Nov. 23, 2009 [Res. 1005419]

TIME: 3:00 p.m.

DEPT: 17

**Complaint Filed: Nov. 6, 2007
Hon. Steven A. Brick**

**ENDORSED
FILED
ALAMEDA COUNTY**

NOV 16 2009

**CLERK OF THE SUPERIOR COURT
By Esther Coleman, Deputy**

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DECLARATION OF DONN S. TAKETA

I, DONN S. TAKETA, declare as follows:

1. I am one of the attorneys for Plaintiffs/Class Representatives and the putative class members in the action entitled, *Lorena Gomez, Anielka Rodriguez v. Mi Pueblo San Jose, Inc., Benjamin De Anda*, Alameda County Superior Court, filed on November 6, 2007, and amended on April 17, 2008, case no. RG 07354914 (the “Litigation”). The following statements are based on my personal knowledge, and if called as a witness I could and would testify competently thereto.

Case Background

2. In or about March 2007, Joel Villaseñor of Sullivan Taketa LLP was contacted by Enrique Martínez of the Law Offices of Enrique Martínez regarding the potential employment-related claims by several hourly workers from the grocery store chain known as Mi Pueblo San Jose, Inc. (“Defendant” or “Mi Pueblo”). Thereafter, Joel Villaseñor and I, along with others in the law firm Sullivan Taketa LLP and the private investigator, DWK & Associates, promptly began our factual due diligence and investigation into the potential employment discrimination and wage-related claims against Mi Pueblo. During the course of the Litigation, we reviewed thousands of pages of Mi Pueblo documents (including, specifically, a detailed compensation report identifying the paycheck deductions for more than 2,300 unique employee identification numbers) and numerous other payroll-related documents. We also interviewed current and former Mi Pueblo employees regarding the alleged unlawful conduct at Mi Pueblo. We obtained public records, including law enforcement and other related filings, and internet-related records.

3. On November 6, 2007, Sullivan Taketa LLP and the Law Offices of Enrique Martínez filed the initial Complaint in this action in the Alameda County Superior Court. After discovering that the alleged individual wage and hour violations were occurring in a

1 similar manner to the hourly employees working throughout Defendant Mi Pueblo, we drafted
2 and filed a motion to amend the complaint. The First Amended Complaint sought class action
3 relief for the alleged wage and hour claims, based on the discovery that the wage and hour
4 claims previously alleged for unlawful paycheck deductions for tools and uniforms used by the
5 workers while at work, and the failure to provide completely off-the-clock meal periods,
6 allegedly applied not just to the named Plaintiffs but appeared to reflect a policy and practice
7 of Defendant Mi Pueblo for all of its non-management employees. On April 8, 2008, the
8 Court granted Plaintiffs' request to file their First Amended Complaint.

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10 4. On April 17, 2008, Plaintiffs filed the operative First Amended Complaint in
11 which Plaintiffs on behalf of themselves and as Class Representatives alleged six class-action
12 claims:

- 13 • FIRST CAUSE OF ACTION - unlawful deductions and failure to pay for work-
14 related expenses in violation of California Labor Code §§ 221, 558, and 2802,
 - 15 • SECOND CAUSE OF ACTION - failure to provide completely off-duty meal
16 periods of at least 30 minutes in violation of California Labor Code §§ 226.7,
17 and 512,
 - 18 • THIRD CAUSE OF ACTION - failure to pay for all hours worked, including
19 time spent working off-the-clock, in violation of California Labor Code § 510,
 - 20 • FOURTH CAUSE OF ACTION - failure to furnish each employee timely and
21 adequate itemized wage statements in violation of California Labor Code § 226,
 - 22 • FIFTH CAUSE OF ACTION - waiting time penalties in violation of California
23 Labor Code §§ 201, 202, and 203, and
 - 24 • SIXTH CAUSE OF ACTION - unfair, unlawful, or fraudulent business practice
25 in violation of California Business & Professions Code § 17200, *et seq.*
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1 In the First Amended Complaint, Plaintiffs Lorena Gómez and Anielka Rodríguez also
2 continued to allege the six individual, non-class claims:

- 3 • SEVENTH CAUSE OF ACTION - gender-based hostile work environment in
4 violation of the California Fair Employment & Housing Act (FEHA),
- 5 • EIGHTH CAUSE OF ACTION - failure to take all reasonable steps to prevent
6 and remediate the hostile work environment as required by section 12940(k) of
7 the FEHA,
- 8 • NINTH CAUSE OF ACTION - retaliation in violation of the FEHA,
- 9 • TENTH CAUSE OF ACTION - pregnancy discrimination,
- 10 • ELEVENTH CAUSE OF ACTION - defamation, and
- 11 • TWELFTH CAUSE OF ACTION - violation of public policy.

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13 5. As part of Plaintiffs’ due diligence and investigation, Plaintiffs deposed
14 Plaintiffs’ supervisor (Benjamín De Anda), a Store Manager (César Lugo), and the Person
15 Most Knowledgeable/Human Resource officer (Lisbet Yopez-Nieves) for Defendant Mi
16 Pueblo. Defendants also took the deposition of each of the Plaintiffs, Lorena Gómez and
17 Anielka Rodríguez. The parties also propounded and exchanged written discovery.

18 6. The individual FEHA-related claims set forth in causes of action SEVEN
19 through TWELVE were separately settled on November 24, 2008. Pursuant to the confidential
20 settlement of the individual claims, the two law firms that represented Plaintiffs received a
21 combined total contingency fee amount of \$106,000 for all of the individual claims against the
22 two defendants. The contingency fee amount was then divided up between the two law firms
23 representing the Plaintiffs. Based on the billing records, Plaintiffs’ counsel had spent 703.8
24 combined total hours working in prosecuting Plaintiffs’ individual claims, which under a
25 lodestar calculation would have been valued at \$206,997.50 (before any multiplier) and which
26 would have been sought under California Government Code section 12965(b). The FEHA-

1 related costs of \$16,394.12 were split equally between Plaintiff Lorena Gomez and Plaintiff
2 Anielka Rodriguez.

3 7. On December 5, 2008, Plaintiffs submitted a Notice of Settlement to the Court
4 regarding the settlement and resolution of the individual FEHA-related claims, specifically
5 causes of action SEVEN through TWELVE of the First Amended Complaint. The settlement
6 of the FEHA-related claims was reached after a private all-day mediation session with JAMS
7 mediator, Michael Loeb. I attended the mediation, and the focus of the first day of mediation
8 was the FEHA-related claims, but a portion of that mediation was spent on addressing a
9 potential resolution of the class action wage and hour claims.

10 8. On December 11, 2008, the parties attended another mediation session with the
11 experienced wage and our class action mediator, Michael Loeb, which focused just on the
12 remaining wage and hour class-action claims (causes of action ONE through SIX of the First
13 Amended Complaint). After a full-day mediation, and multiple follow-up telephone
14 conferences with the mediator during the next two months, all of which I participated in, the
15 parties, through arm's-length negotiations, were able to finally reach a settlement of the
16 remaining claims on February 18, 2009.

17 9. The terms of the proposed settlement were extensively negotiated between
18 counsel and the private mediator, with the clients involved throughout the discussions. Our
19 post-mediation calls to the mediator even included interrupting Mr. Loeb's vacation, when he
20 was out of the country, regarding one of the final sticking points to a possible settlement. After
21 months of negotiations, the terms of the proposed Settlement were finally reached, despite
22 counsel for Defendant and Class Counsel having divergent views. For example, counsel for
23 the parties disagreed about the impact of the recent California decisions in *Brinker Restaurant*
24 *Corp. v. Sup. Ct. (Hohnbaum)* (2008) 165 Cal.App.4th 25, *rev. granted* 85 Cal.Rptr.3d 688
25 (Oct. 22, 2008), and *Brinkley v. Public Storage, Inc.* (2008) 167 Cal.App.4th 1278, *rev.*
26 *granted* 87 Cal.Rptr.3d 674 (Jan. 14, 2009). Both of these decisions regarding meal period
27 claims are currently pending review before the California Supreme Court. The parties also had
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1 divergent views regarding the strength or weakness of the evidence regarding class
2 certification, as well as the ultimate issue of liability on the merits, and the extent of monetary
3 exposure faced by Mi Pueblo if it were found liable at trial regarding all the claims, but
4 especially the meal period claims and the claims deriving from the meal period claims, such as
5 the waiting-time penalties and failure to pay overtime claims that were based on the alleged
6 failure to pay the requisite meal periods. The parties broke through these differences only with
7 the help of a very skilled and experienced mediator, and after substantial compromise by the
8 parties and counsel.

9 10. Based on a detailed review of Mi Pueblo's payroll records and compensation
10 report, Plaintiffs were able to calculate the amount of the wages withheld based on paycheck
11 deductions for uniform, tools, or equipment up until June 5, 2008 (cut-off date for the
12 compensation report), and then extrapolating to cover up until September 30, 2008 (end of the
13 Class Period). The estimated total amount of wages withheld for uniform, tool or equipment
14 deductions was approximately \$340,000. Using an annual interest rate of 10% in accordance
15 with California Labor Code section 218.6 and Civil Code section 3289(b), Plaintiffs calculated
16 interest due on each individual deduction from the date of that individual deduction for a total
17 estimated interest calculation of approximately \$65,000. Plaintiffs then analyzed potential
18 waiting time penalties, but only from three - not four years - prior to the filing of the First
19 Amended Complaint, and excluding employees that were still current employees as of the last
20 date of the compensation report. Plaintiffs evaluated the total number of those employees
21 eligible for waiting time penalties and then calculated waiting time penalties up to a maximum
22 of 30 days using a conservative estimate of \$9.00 per hour. The total estimated waiting time
23 penalties without extrapolating past June 5, 2008, was approximately \$2.1 million dollars. The
24 estimated sum of the estimated unlawful deductions, plus statutory interest, plus waiting time
25 penalties, was approximately \$2.4 million dollars.

26 11. The Class Action Settlement Agreement that was finally reached, subject to
27 Court approval, provided for Defendant Mi Pueblo to pay a gross amount of **\$650,000.00 in a**
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1 **“no claims made,” “no reversion to the employer,” common settlement fund.** The Class
2 under the settlement agreement was defined as: All non-exempt employees of Mi Pueblo who,
3 during the Class Period, had a paycheck deduction for uniforms, tools, or equipment. The
4 parties had estimated the class size to be around 2,700 individuals (which class size has since
5 been modified and confirmed through eliminating duplicate entries to be 2,688 former and
6 current employees). The parties agreed that the Class Period would be defined as: April 17,
7 2004, through and including September 30, 2008.

8 12. Class Counsel jointly submit that the proposed Settlement is fair to the Class.
9 The parties negotiated the proposed Settlement in good faith over several in-person and
10 telephone sessions, at arm’s length, and under the supervision of an experienced mediator,
11 Michael Loeb. The parties have conducted comprehensive discovery directed to issues on
12 class certification, liability, and damages. *Indeed, in this case, Class Counsel has reviewed*
13 *and analyzed the compensation data, which shows the actual paycheck deductions for the non-*
14 *exempt Mi Pueblo employees during the January 2004 through June 2008 time period.* Based
15 on the discovery to date, the average actual total amount of paycheck deductions for uniforms,
16 tools, and equipment is estimated to be \$340,847.00 or approximately \$126.80 per Class
17 member during the Class Period. Since there are approximately 2,688 Class members, if no
18 Class member opts out then each Class member should receive a Settlement amount of
19 approximately \$150.48, which in this case will exceed the average actual paycheck deduction,
20 even after taking into consideration the requested attorneys’ fees, costs, enhancement for Class
21 Representatives and Claims Administrator costs.

22 The net settlement amount is calculated based on the following formula: \$650,000.00
23 settlement fund, minus \$162,500.00 or 25% of the settlement fund for contingent attorneys’
24 fees to be allocated between the two Class Counsel law firms, minus an estimated maximum of
25 \$40,000 in actual litigation costs advanced, minus an estimated maximum of \$40,000 in claims
26 administration costs, minus \$3,000 that would be divided equally between the two Class
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1 Representatives, resulting in an estimated net settlement fund of \$404,500.00 divided by 2,688
2 Class Members.

3 13. All \$650,000.00 of the Settlement Fund will be paid out with no reversion to the
4 employer. Any uncashed checks that expire after 120 days will be paid to 501(c)(3) charitable
5 organizations related to claims made in the litigation or designed to aid the education of the
6 Hispanic community in the Northern California area. An experienced Claims Administrator
7 will be tasked with verifying the Class payments, and otherwise administering the settlement
8 process under the supervision of the parties' counsel, and the Court. The process set forth in
9 the proposed Settlement provides for the prompt notice to the Settlement Class. This notice
10 will provide the Class with an opportunity to opt out, or object to the Settlement.

11 14. Class Counsel negotiated the proposed Settlement with ample knowledge as to
12 the strengths and weaknesses of this case, the amounts necessary to compensate Class
13 members for their damages, and the benefits of the proposed Settlement under the
14 circumstances of this case. In addition, both Class Counsel and defense counsel are
15 experienced employment and class action attorneys, and have used their experience and
16 expertise in fashioning a Settlement Agreement that is acceptable to both parties. Defendant
17 Mi Pueblo has legal and factual grounds for defending this action. Defendant denies it is liable
18 for overtime pay, meal period pay, withheld wages, and for the various penalties alleged by
19 Plaintiffs. Defendant Mi Pueblo further contends that its maximum damages exposure, if
20 found to be liable, is much less than the maximum Plaintiffs have calculated. Notwithstanding
21 these arguments, the Settlement commits Defendant to pay \$650,000.00 to compensate Class
22 members for the alleged unlawful deductions and alleged failure to pay for business expenses,
23 which Class Counsel believes is a fair and adequate amount given the litigation risks and delay
24 of further litigation and appeals. Moreover, the relief obtained is substantial in relation to the
25 actual deductions. The estimated average recovery in this case will exceed the estimated
26 average of the actual total paycheck deductions for uniforms, tools, and equipment for the
27 Class during the Class Period.

1 15. With respect to the Class Action claims other than the alleged unlawful
2 deductions and alleged failure to pay for business expenses, the parties agreed that the meal
3 period claims, and derivative overtime and itemized wage statement claims should be
4 dismissed without prejudice. Relative to the alleged unlawful deduction claims, the parties
5 agreed that the meal period related claims would be more difficult to certify as a class action,
6 especially in light of the current status of the law in which the California Supreme Court is
7 currently reviewing the appellate court decision in *Brinker Restaurant Corp. v. Superior Court*
8 (2008) 165 Cal.App.4th 25, 80 Cal.3d 781, *rev. granted and superseded* by 85 Cal.Rptr.3d 688
9 (Oct. 22, 2008) (court of appeal rejected the argument that the employer has to ensure that
10 meal breaks are taken). With respect to the alleged unlawful paycheck deductions and
11 unreimbursed business expenses, the settlement provides the somewhat unusual situation of an
12 estimated payment to the class members of more than the estimated average loss.

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14 16. Since our firm’s first meeting with prospective class members, in particular both
15 Joel Villaseñor and Enrique Martínez devoted many evenings and weekends to meeting with
16 Spanish-speaking employees of Defendant Mi Pueblo and kept me informed of the
17 investigation. Mr. Martínez’s and Mr. Villaseñor’s fluency in Spanish also proved to be
18 essential in this case.

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20 17. Since approximately two years ago, I along with attorneys Mark Sullivan, Joel
21 Villaseñor, George Galbraith, and others from Sullivan Taketa LLP, as well as Enrique
22 Martínez of the Law Offices of Enrique Martínez have continued to work diligently on this
23 case, devoting significant attorney time and expenses to this case. Since the very beginning of
24 this litigation, Class Counsel has been deeply committed to litigating this matter vigorously to
25 a just conclusion for our clients. Plaintiffs’ co-counsel as a team also has functioned well
26 together in bringing this case to potential resolution following an extensive litigation and
27 mediation process.

Class Counsel Qualifications

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3 18. Sullivan Taketa LLP (“ST”) is a litigation boutique specializing in employment
4 law. ST is also certified as a minority-owned law firm under General Order 156 of the
5 California Public Utilities Commission (CPUC).

6 19. During the past few years, ST has specialized in employment law and business
7 litigation, and has been involved in several class actions, including: *Daniel A. Gutierrez,*
8 *Arturo Navarrete, and Emiliano Reyna v. Schmid Insulation Contractors, Inc., et al.*, United
9 States District Court, Case No. CV 2:08-6010 DSF (JCx); *Channel Islands Marina Boaters’*
10 *Assn. v. Channel Islands Marina*, Ventura County Superior Court; *In re California Power*
11 *Exchange*, U.S. Bankruptcy, CD Cal.; and *Dustin Balint, Steve Kuehl, et at. v. Wells Fargo*
12 *Bank, NA*.

13 20. ST was retained by the California Power Exchange (“CalPX”), the market-maker
14 for electrical power in California in the then-new era of deregulation. As a result of record
15 high prices on the spot market for electricity in California, Governor Davis had commandeered
16 CalPX’s energy contracts and we were retained to pursue compensation from the State of
17 California. The multi-billion dollar filing that ST made with the California Victim
18 Compensation and Government Claims Board as counsel for CalPX (Claim No. G153305) was
19 the start of highly-publicized litigation and re-regulation that re-established a market for
20 wholesale electrical energy in California. ST continued as co-counsel for CalPX in the
21 bankruptcy proceeding involving CalPX, *In re California Power Exchange*, U.S. Bankruptcy
22 Court, Central District of California, Case No. LA 01-16577-ES.

23 21. Mark F. Sullivan. Mark Sullivan graduated in 1969 from Georgetown
24 University, *summa cum laude*, with the highest academic average in his class. In 1972, Mr.
25 Sullivan received his Juris Doctor degree with honors from the University of Michigan Law
26 School, and was commissioned as an officer in the U.S. Navy Judge Advocate General's
27 Corps. (JAG). Mr. Sullivan currently is licensed to practice law in California, Michigan,
28 Hawaii, North Carolina, and New York. As a member of the JAG Corps, Mr. Sullivan was

1 involved in a number of Congressional inquiries and threatened class actions over alleged
2 improper foreign intelligence surveillance, environmental litigation, and alleged underpayment
3 of Navy and Marine Corps personnel, including such cases as *Larionoff v. United States*
4 (D.D.C. 1973) 365 F. Supp. 140, aff'd *United States v. Larionoff* (1977) 431 U.S. 864, as well
5 as the multi-district litigation entitled *In re U.S. Navy Variable Reenlistment Bonus Litigation*
6 (J.P.M.L. 1976) 407 F. Supp. 1405.

7 Since 1977, Mr. Sullivan has been involved in several highly-publicized class
8 actions and mass tort cases, including environmental litigation brought by the Michigan
9 Attorney General against several Western Michigan chemical companies, most notably,
10 Hooker Chemical Company, the primary defendant in the Love Canal (Niagara Falls, New
11 York) mass tort case. As lead in-house litigation counsel for GTE California Incorporated, and
12 its predecessor, successor, and affiliates, Mr. Sullivan has been involved in several class action
13 cases, including the landmark case known as *General Telephone Company of [the] Southwest*
14 *v. Falcon* (1982) 457 U.S. 147. Over the years, Mr. Sullivan has been the President of the
15 California Employment Law Council, which is an association of in-house counsel and human
16 resource professionals that have filed numerous amicus briefs regarding California
17 employment law issues.

18 22. Donn S. Taketa. My educational background includes an undergraduate degree
19 from UCLA with honors in 1984, and a J.D. from the University of Pennsylvania Law School
20 in 1987, where I was an Associate Editor and Articles Editor of the University of Pennsylvania
21 Law Review. Thereafter, I worked at two large law firms -- Brobeck, Phleger & Harrison, and
22 Kaye, Scholer -- before working from 1994 to 1998 as an in-house corporate litigation attorney
23 at GTE California Incorporated, and its successor Verizon California Inc. I am currently a
24 founding Partner of Sullivan Taketa LLP, have served as an arbitrator for the Ventura County
25 Superior Court, and was named a Southern California Super Lawyer in 2004. I have been
26 personally involved as an attorney in the class actions involving the heart valves manufactured
27 by Shiley Incorporated and Pfizer, Inc., as well as serving as the lead counsel on such
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1 employment-related class actions as *Beale, et al. v. GTE California* (C.D. Cal. 1996) 999 F.
2 Supp. 1312 *aff'd* (9th Cir. 1998) 141 F.3d 1173; and co-lead counsel on *Daniel A. Gutierrez,*
3 *Arturo Navarrete, and Emiliano Reyna v. Schmid Insulation Contractors, Inc., et al.*, United
4 States District Court, Case No. CV 2:08-6010 DSF (JCx).

5 23. Additional ST Attorneys Working on this Action. Joel R. Villaseñor also has
6 provided extensive work on this matter. Mr. Villaseñor graduated *magna cum laude* from
7 Harvard University, and received his J.D. from UCLA Law School, where he was the Articles
8 Editor of the Bulletin of Law and Technology. Mr. Villaseñor has served as the President of
9 the Ventura County Bar Barristers, as an officer of the Ventura Mexican American Bar
10 Association, as an Executive Committee member and District Representative of the California
11 Young Lawyers Association, as an Access & Fairness Leadership Academy Scholar with the
12 State Bar of California, and as Southern California District Representative to the ABA Young
13 Lawyers' Division. George Galbraith-Albutt has also worked extensively on this matter. Mr.
14 Galbraith-Albutt received his undergraduate degree from Cambridge University, masters
15 degree from Oxford University, and law degrees from the BPP Law School in London, and
16 Ventura College of Law. Before joining Sullivan Taketa in 2007, Mr. Galbraith worked
17 exclusively on federal civil rights cases.

18 24. Enrique Martínez will be submitting a separate declaration in connection with
19 Plaintiffs' motion for attorneys' fees, which will be filed prior to the motion for final approval
20 of the class action settlement. However, my understanding based on working with Mr.
21 Martínez and having reviewed a prior declaration of Enrique Martínez is that he graduated
22 from Yale University in 1995 and from UCLA Law School in 1999. Mr. Martínez has
23 extensive knowledge of employment litigation in the San Francisco Bay Area in both federal
24 and state courts. He began his legal career at Lieff, Cabraser, Heimann & Bernstein (LCHB)
25 working primarily on civil rights and employment class actions. After approximately four
26 years at LCHB, he founded Ramirez & Martínez Law Offices, doing individual plaintiff
27 employment cases. Currently, he has his own law practice, Law Offices of Enrique Martínez,
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1 in Oakland representing employees in discrimination and wage and hour matters, including
2 class actions. He often co-counsels and works with attorneys at firms such as Goldstein,
3 Demchak, Baller, Borgen & Dardarian in Oakland and Hinton, Alfert & Sumner in Walnut
4 Creek regarding wage and hour class actions.

5 25. From March of 2007, until the present, we, as counsel for the Plaintiffs, have
6 spent hundreds of hours vigorously investigating and pursuing claims asserted against
7 Defendant Mi Pueblo, including reviewing thousands of pages of compensation and payroll
8 documents, conducting extensive legal research on state wage and hour law, drafting of legal
9 pleadings, extensive informal discovery, interviewing numerous putative class members,
10 creating damages calculations, drafting mediation briefing, and negotiating with Defendant's
11 counsel. To date, Plaintiffs' counsel have not received payment for representing the Plaintiffs
12 or putative class members in this action, but for two years have advanced costs to litigate this
13 matter.

14 26. I am familiar with the billing and time-keeping practices of my firm, Sullivan
15 Taketa LLP, and of other counsel for Plaintiffs in this action. Joel Villaseñor and I have
16 reviewed the individual time records entered by the attorneys from the two firms who have
17 performed work on this case as Plaintiffs' class counsel. Most of the individual time records
18 contain material that I believe constitutes attorney work product and/or privileged information.
19 For example, many entries describe Plaintiffs' counsel's communications with Plaintiffs,
20 including analysis of the theories of the case, analysis of potential witnesses, and topics of
21 legal research. Some of these entries describe theories that were considered, evaluated, and
22 then discarded; while other entries describe theories that were pursued and became part of
23 Class Counsel's legal strategy in this litigation. In addition, the time records often describe
24 attorney-client communications in detail, for example, stating that interviews were conducted,
25 declarations were prepared, or a telephone conference with clients occurred to discuss the case.

26 If these billing records were provided to counsel for Defendant or were made publicly
27 available, it is my belief that Plaintiffs' ability to pursue their case would be severely
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1 compromised, should the Court not approve settlement and the case return to active litigation.
2 Also, providing this information could compromise the ability of Class Counsel to pursue
3 future litigation in other cases, by disclosing Class Counsel's theories and mental impressions
4 in cases similar to this one.

5 27. Attached hereto as Exhibit A is a true and correct copy of the Court's July 22,
6 2009, Order.

7 28. Attached hereto as Exhibit B is a true and correct copy of the revised Class
8 Notice, together with its Spanish-language translation.

9 29. Attached hereto as Exhibit C is a redlined version of the revised Class Notice.

10 30. Attached hereto as Exhibit D is a true and correct copy of the Declaration of
11 Michael Loeb.

12 31. Attached hereto as Exhibit E is a true and correct copy of the Declaration of
13 Lorena Gomez.

14 32. Attached hereto as Exhibit F is a true and correct copy of the Declaration of
15 Anielka Rodriguez.

16 33. Attached hereto as Exhibit G is a summary of the time billed and fees incurred
17 by Class Counsel for the individual and class claims in the above-captioned matter.

18 34. Attached hereto as Exhibit H, and subject to an application to file under seal, is a
19 true and correct copy of Class Counsel's detailed time records for work performed in support
20 of the class claims up to September 30, 2009.

21 35. Attached hereto as Exhibit I, and subject to an application to file under seal, is a
22 true and correct copy of Class Counsel's detailed time records for work performed in support
23 of the individual claims up to September 30, 2009.

24 36. Attached hereto as Exhibit J is a true and correct copy of the proposed Class
25 Action Settlement Schedule.

26 37. Attached hereto as Exhibit K is a true and correct copy of the Declaration of
27 Daniel Rosenthal.

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1 38. Attached hereto as Exhibit L is a true and correct copy of the enveloped proposed
2 by Rosenthal & Co LLC. to be used for mailing of the Class Notice.

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4 I declare under penalty of perjury that the foregoing is true and correct.

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6 Executed this November 15, 2009, in Westlake Village, California.

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Donn S. Taketa

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 31351 Via Colinas, Suite 205, Westlake Village, California 91362.

On November 16, 2009, I caused the foregoing document(s) described as **DECLARATION OF DONN S. TAKETA IN SUPPORT OF PLAINTIFFS' REVISED MOTION** to be served on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

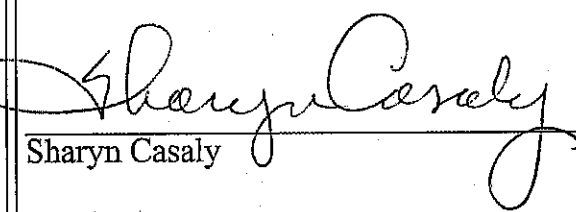
Daniel H. Handman, Esq.
Curiale Hirschfeld & Kraemer, LLP
The Water Garden
2425 Olympic Boulevard, Suite 550, East Tower
Santa Monica, California 90404
Facsimile: (310) 255-0986

Attorneys for Defendants

- BY MAIL AS FOLLOWS: I caused such envelope to be deposited in the mail at Westlake Village, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the Firm's practice of collecting and processing correspondence for mailing with the United States Postal Service. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business.
- BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the offices of the addressee(s).
- BY OVERNIGHT COURIER: I caused the above-referenced document to be delivered to CALIFORNIA OVERNIGHT for delivery to the above address.
- BY FACSIMILE MACHINE: I am "readily familiar" with the Firm's practice of collecting and processing correspondence which is sent via facsimile. It is transmitted to the recipient on the same day in the ordinary course of business.

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

Executed on November 16, 2009, at Westlake Village, California.



Sharyn Casaly