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Attorneys for Plaintiffs and the Class

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

JACOB RIMLER, GIOVANNI JONES,
DORA LEE, KELLYN TIMMERMAN,
and JOSHUA ALBERT, on behalf of
themselves and others similarly situated and
in their capacities as Private Attorney
General Representatives,

Plaintiff,

v.

POSTMATES, INC.,

Defendants.

Case No.: CGC-18-567868

DECLARATION OF MATTHEW BAINER
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

1 I, Matthew Bainer, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of California and the
3 principal of The Bainer Law Firm, attorney of record for the Plaintiff and the putative class. I
4 have personal knowledge of the matters and documents set forth herein, and would and could
5 competently testify thereto if called as a witness herein.

6 **DECLARANT’S ROLE IN LITIGATION**

7 2. Plaintiff’s counsel herein represents Plaintiff Sherika Vincent who seeks final
8 approval of the underlying settlement, as detailed herein.

9 3. Plaintiff’s counsel herein has extensive experience in wage and hour class action
10 litigation. I have been selected as a Northern California Super Lawyer Rising Star for both 2015
11 and 2016. These recognitions are a selection by my peers based upon ethics, experience and
12 reputation and represent the top 2.5% of individuals under the age of 40 in our profession. I
13 have litigated numerous successful wage and hour class actions in California. I have been a
14 member of the Executive Committee of the Alameda County Bar Association’s Labor &
15 Employment Law Section since 2010 and have appointed to be the Section’s Chairperson for
16 2019. Prior to forming The Bainer Law Firm, I spent 12 years as the Senior Associate at one of
17 the state’s most accomplished wage & hour class action firms. Notably, this work included an
18 appointment as co-class counsel on the matter of *Augustus v. ABM Security Services, Inc.*,
19 which resulted in a \$90 million-dollar summary judgment verdict for the Plaintiff Class that was
20 subsequently reviewed and upheld by the California Supreme Court. Augustus v. ABM Security
21 Services, Inc. (2016) 2 Cal. 5th 257. I have also appeared as counsel-of-record in numerous
22 appellate opinions, at both the State and Federal level, for employees in the state of California
on pertinent wage & hour and class action matters, including:

- 23 a. Dunbar v. Albertson’s, Inc. (2006) 141 Cal.App.4th 1422;
- 24 b. Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116;
- 25 c. Augustus v. ABM Security Services, Inc. (2014) 233 Cal. App. 4th 1065
- 26 d. Bower v. Inter-Con Security Systems, Inc. (2014) 232 Cal. App. 4th 1035;
- 27 e. Davis v. Nordstrom, Inc. (2014) 755 F.3d 1089
- 28 e. Montano v. Wet Seal Retail, Inc. (2015) 232 Cal. App. 4th 1214;

1 employees. The Bainer Law Firm served as class counsel in this matter. The case settled for
2 \$250,000.

3 **Dailey, et al. v. Performant Financial Corporation**

4 Alameda County Superior Court Case No. RG104 3644

5 This action was filed on behalf of the company's non-exempt employees seeking wages
6 for alleged violations of California law for unpaid overtime and denial of meal and/or rest
7 periods. After defeating the defendant's summary judgment motion and filing a motion for
8 class certification, this case settled for \$1.2 million.

9 **Davis, et al. v. American Commercial Security Service, Inc.**

10 San Francisco County Superior Court Case No. CGC-05-444421 (Consolidated with Los
11 Angeles County Superior Court Case No. BC336416)

12 This action was filed a claim against American Commercial Security Services, Inc. for
13 violations of California law for denial of meal and rest periods toward security guards. The
14 action achieved class certification status in 2009. Following summary judgment proceedings, a
15 judgment of over \$89 million was entered against the defendant. The judgment was ultimately
16 upheld by the California Supreme Court.

17 **Davis, et al. v. Universal Protection Security Systems, Inc., et al.**

18 San Francisco County Superior Court Case No. CGC-09-495528

19 This case was filed as a claim in 2009 against Universal Protection Security Systems,
20 Inc. for violations of California law for denial of meal and rest periods toward security guards.
21 This case settled in 2013 for \$4 million.

22 **Escow-Fulton, et al. v. Sports and Fitness Clubs of America dba 24 Hour Fitness USA, Inc.**

23 San Diego County Superior Court Case No. GIC881669; consolidated with Case No.
24 GIC873193

25 This class action was filed against this health and fitness company on behalf of the
26 company's California "Group X" Instructors to recover regular and overtime pay, related
27 penalties and un-reimbursed expenses. The action achieved class certification status in 2009. In
28 2011, the parties agreed to settle the class' expense reimbursement claims for \$10 million. The

1 parties then filed cross-motions for summary adjudication and on August 2, 2011, the court
2 issued an Order finding 24 Hour Fitness' session rate compensation scheme to be an invalid
3 piece rate. The parties then agreed to settle the class' unpaid wage claims for \$9 million, and the
4 summary adjudication order was vacated pursuant to settlement.

5 **Espinosa v. California College of San Diego, Inc.**

6 United States Southern District of California Court Case No. 3:17-cv-00744-MMA (BLM)

7 This case was filed on behalf of a class of non-exempt employees of Defendant for
8 allegedly being denied lawful breaks and overtime pay. The Bainer Law Firm served as class
9 counsel for the proposed class. This case settled in 2017 for \$300,000.

10 **Grootboom v. Security Industry Specialists, Inc.**

11 Alameda County Superior Court Case No. RG09435440

12 This class action was filed on behalf of the company's California-based security guards
13 to recover unpaid wages and compensation for missed meal and rest periods in violation of
14 California law. This action settled in 2009 for \$775,000.

15 **Holm, et al. v. Borders, Inc.**

16 San Francisco County Superior Court Case No. CGC-05-445357

17 Plaintiff filed this action for the proposed class against this retail chain for violation of
18 California law for failure to pay Inventory and/or Sales Managers overtime wages. It also
19 alleged that the proposed class had been denied rest and meal periods. This matter settled in
20 2007 for \$3.5 million.

21 **Ingraham v. Orchard Supply Hardware, Corp.**

22 San Mateo County Superior Court Case No. 457004

23 This matter was filed on behalf of all company employees who were forced to maintain,
24 as a condition of employment, a company-issued uniform. This class action also seeks recovery
25 of unpaid wages, compensation for the improper denial of overtime pay and for missed meal
26 and rest periods. This matter resolved in 2008 on behalf of approximately 22,000 class members
27 for \$1.75 million.

28 **Kullar v. Foot Locker, Inc.**

1 San Francisco County Superior Court Case No. CGC-05-447044

2 This action was brought against this sporting retailer on behalf of California employees
3 who were allegedly forced to purchase shoes of a distinctive color or design as a term and
4 condition of their employment and in violation of state law. The Court approved a \$2.0 million
5 settlement that resolved this action. After two separate appeals by an objector challenging the
6 settlement, the Court of Appeal affirmed the trial court's judgment.

7 **Kurihara v. Best Buy Co., Inc.**

8 United States District Court, Northern District of California, Case No. 3:06-CV-01884

9 Plaintiff filed an action against this retailer on behalf of employees who were allegedly
10 subject to security searches for which they were not compensated, in violation of California law.
11 Also alleged was that the company denied these employees rest and meal periods. In 2007, the
12 Court certified a class of over 16,000 Best Buy employees. The action settled for \$5 million in
13 2010.

14 **Mambuki, et al. v. Securitas Security Services USA, Inc.**

15 Santa Clara County Superior Court Case No. 1-05-CV-047499 (JCCP No. 4460)

16 Plaintiff filed a claim against this defendant for violations of California law (for denial
17 of meal and rest periods) on behalf of the company's California-based security guards. This
18 coordinated proceeding settled in 2008 for \$15 million.

19 **McFann, et al. v. Volt Telecommunications Group, Inc.**

20 Riverside County Superior Court Case No. RIC475410

21 (Los Angeles County Superior Court JCCP No. 4533)

22 This action was filed on behalf of company field technicians to recover reimbursement
23 for business-related expenses and for unpaid wages. The Court approved an Arbitration Award
24 entered pursuant to a \$3.45 million class-wide settlement in 2009.

25
26 **Menchykv. Beverages & More, Inc.**

27 Alameda County Superior Court Case No. RG05196918

28 Plaintiff filed this action for violations of California law for unpaid overtime wages and

1 for failure to provide meal and rest periods. Although a small putative class (98 class members),
2 it settled for \$1.2 million, representing one of the highest per-workweek settlements in
3 California at the time.

4 **Moore v. Albertsons Inc.**

5 United States District Court, Northern District of California, Case No. 3:04-CV-03731

6 This action was filed for violations of California's overtime laws on behalf of the
7 company's California Drug Managers. This action settled for \$2.35 million, again representing
8 one of highest per-workweek settlements in the state at the time.

9 **Nunez v. AC Square, Inc., et al.**

10 San Mateo County Superior Court Case No. CIV479622 (Consolidated with Case Nos. 464144
11 and 473571)

12 Plaintiff filed this class action on behalf of all California Technicians employed by AC
13 Square (during the applicable claims period) to recover unpaid wages including overtime pay,
14 meal and rest period compensation, related penalties and un-reimbursed expenses. This action
15 settled for \$800,000.

16 **Olvera v. AlSCO, Inc.**

17 United States Central District of California Court Case No. 5:17-cv-01500-RGK-KS

18 Plaintiff filed this class action on behalf of all Route Sales Drivers employed by
19 Defendant to recover unpaid wages including overtime pay, meal and rest period compensation,
20 related penalties and un-reimbursed expenses. The Bainer Law Firm served as class counsel in
21 this matter. This action settled for \$550,000.

22 **Paz v. Aero USA, Inc.**

23 San Bernardino County Superior Court Case No. CIV-DS-1821561

24 This action was filed on behalf of company non-exempt retail employees to recover
25 reimbursement for business-related expenses and for unpaid wages. The Bainer Law Firm
26 served as class counsel on this action. The case settled for \$1.9 million.

27 **Schweinsburg v. Paragon Systems, Inc.**

28 United States District Court, Central District of California, Case No. 2:09-CV-08139

1 This class action was filed in 2009 against Paragon Systems, Inc., for violations of
2 California law for denial of meal and rest periods toward non-exempt security guards. This case
3 settled for the policy limit of \$885,410.

4 **Torres, et al. v. ABC Security Services, Inc.**

5 Alameda County Superior Court Case No. G04158744

6 Plaintiff filed this litigation alleging violations of California law for denial of meal and
7 rest periods on behalf of the company's security guards. This action received class certification
8 status in 2006 and settled for \$495,000.

9 **Torres, et al. v. Point 2 Point Global Security, Inc.**

10 Riverside County Superior Court Case No. RIC 1708613

11 Plaintiff filed this litigation alleging violations of California law for denial of meal and
12 rest periods on behalf of the company's security guards. The Bainer Law Firm served as Class
13 Counsel in this matter. This action settled for \$270,000.

14 **INVESTIGATION AND LITIGATION**

15 4. The settlement amount is fair and reasonable based on a review of all objective
16 evidence. The parties' assessment of the matter is based on extensive research before and
17 during the litigation. This settlement, subject to the Court's approval, is the product of
18 substantial effort expense by the parties and their counsel.

19 5. Class Counsel are experienced and qualified to evaluate the class claims and
20 viability of the defenses. The recovery for each of the Class Members is on very generous terms
21 on account of the relativity of the Class Members' recovery to what they would have
22 received had they been properly paid employees from the onset compared with the risks of
23 further litigation. This settlement is fair, adequate and reasonable and in the best interests of the
24 Class.

25 **ATTORNEY'S FEES AND COSTS**

26 14. I have reviewed my contemporaneous billing records for this case. My hourly
27 billable rate has been set at \$750, which is consistent with the amounts consistently approved by
28 federal and state courts over the past several years. To date, I have spent 82 hours on the

1 prosecution of this action for a billing total of \$ \$61,500.

2 15. This I have reviewed my expense records for this case. To date, my firm has
3 incurred at total of \$1,597.36 in expenses on the prosecution of this action.

4

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

7 Executed this 5th day of October, 2021 at Oakland, California.

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Matthew R. Bainer

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