

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

MADELYN CASILAO, HARRY  
LINCUNA, and ALLAN GARCIA, on  
behalf of themselves and all others  
similarly situated,  
Plaintiffs,

v.

HOTELMACHER LLC, dba HOLIDAY  
INN EXPRESS; STEAKMACHER, LLC,  
dba MONTANA MIKE'S STEAKHOUSE;  
SCHUMACHER INVESTMENTS, LLC,  
dba WATER ZOO; APEX USA, INC.;  
WALTER SCHUMACHER; and  
CAROLYN SCHUMACHER,  
Defendants.

Case No.: CIV-17-800-SLP

**PLAINTIFFS' UNOPPOSED MOTION FOR COSTS,  
ATTORNEYS' FEES, AND CLASS REPRESENTATIVE  
SERVICE AWARDS AND MEMORANDUM OF LAW IN SUPPORT**

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## INTRODUCTION

Plaintiffs Madelyn Casilao, Harry Lincuna, and Allan Garcia (collectively, “Plaintiffs”) respectfully move under Federal Rule of Civil Procedure 23(h), for an award of attorneys’ fees, costs, and service awards for each of the three Named Plaintiffs as set forth below.<sup>1</sup>

This Court granted preliminary approval of the proposed class action settlement<sup>2</sup> of this case on April 24, 2024. Dkt. No. 310. The Court has scheduled a final settlement approval hearing to take place on August 22, 2024, at 10:00 a.m.

Class Counsel seek an award of costs and expenses of \$69,072.58, and Legal Aid at Work and Equal Justice Center seek attorneys’ fees of \$145,927.42. The fee request is less than 20 percent of the \$730,000 common fund settlement. These awards are fair and reasonable, and well below the average award granted as a percentage of a common fund. They are commensurate with awards in other similar cases and properly recognize the relief obtained for the class members, the work expended by the attorneys, and the risks that the attorneys took on in bringing this case.

Plaintiffs also seek a service payment of \$15,000.00 for each of the three Named Plaintiffs in recognition of the extensive work they have done on behalf of the class. This service awards are reasonable in light of the efforts the Plaintiffs have

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<sup>1</sup> Defendants’ counsel has advised that Defendants do not oppose the relief requested herein.

<sup>2</sup> All capitalized terms that are not otherwise defined in this memorandum have the meanings ascribed to them in the Settlement Agreement. Dkt No. 302-2.

undertaken on behalf of the class and the results obtained and is in line with service awards in comparable settlements.

### **BACKGROUND**

In 2017, the named Plaintiffs brought suit on behalf of a class of 23 Filipino workers against Walter Schumacher, Carolyn Schumacher, and a number of corporate defendants owned by them for allegedly violating 18 U.S.C. § 1589's prohibition against Forced Labor and allegedly breaching contracts made with the Class and the Filipino government. Dkt. No. 1, Complaint ¶¶ 7, 103-36. The parties entered into a settlement agreement resolving those claims on January 26, 2024. Dkt. No. 302-2. For the purposes of this Motion, Plaintiffs refer to and incorporate by reference the factual and procedural background set forth in Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. Dkt. No. 302, at 2-7.

The Declaration of George A. Warner,<sup>3</sup> filed herewith, is an integral part of this submission and, for the sake of brevity, Class Counsel respectfully refers the Court to it for a detailed description of, *inter alia*, Class Counsel's engagement by Plaintiffs (Warner Decl. ¶ 17-18); the history of the Action prior to the Settlement (*id.* ¶ 9); the negotiations leading to the Settlement (*id.* ¶¶ 10-12); Class Counsel's billing rates and hours spent (*id.* ¶ 24-36); costs expended by Cost Counsel to prosecute this action (*id.*

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<sup>3</sup> Citations to "Warner Decl. ¶ \_\_\_" refer to paragraphs in the Declaration of George A. Warner. Citations to "Willett Decl. ¶ \_\_\_" refer to paragraphs in the Declaration of Christopher J. Willett, filed herewith.

¶¶ 19-23); and a description of the work that Named Plaintiffs performed for the benefit of the Class (*id.* ¶¶ 39-46).

## ARGUMENT

### I. THE FEE REQUEST IS REASONABLE

“[A] litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.” *Voulgaris v. Array Biopharma, Inc.*, 60 F.4th 1259, 1263 (10th Cir. 2023) (alteration in original) (citation omitted). In assessing reasonableness, the Tenth Circuit prefers awarding attorneys’ fees based on a percentage of the common fund. *Id.* Although courts are not required to “perform a lodestar cross-check,” they can do so to evaluate the reasonableness of the award.<sup>4</sup> *Id.* at 1265. “[W]here the lodestar method is used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court.” *Id.* at 1267 (quoting *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000)).

In determining whether the requested percentage of a settlement is reasonable, the Tenth Circuit instructs that District Courts review the twelve *Johnson* factors. *Voulgaris*, 60 F.4th at 1263. Those factors are:

- (1) the time and labor required,

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<sup>4</sup> Courts in the Western District of Oklahoma have typically used the percentage method and have “rejected application of a lodestar analysis or lodestar cross check.” *Rounds v. FourPoint Energy, LLC*, No. CIV-20-00052-P, 2022 WL 16843240, at \*3 (W.D. Okla. Aug. 23, 2022) (citation omitted) (citing cases).

- (2) the novelty and difficulty of the questions presented by the litigation,
- (3) the skill required to perform the legal services properly,
- (4) the preclusion of other employment by the attorneys 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 in controversy 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.

*Rounds v. FourPoint Energy, LLC*, No. CIV-20-00052-P, 2022 WL 16843240, at \*3 (W.D. Okla. Aug. 23, 2022). “The weight given to each *Johnson* factor varies from case to case, and each factor may not always apply.” *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-md-2785-DDC-TJJ, 2022 WL 2663873, at \*4 (D. Kan. July 11, 2022). Other courts in the Tenth Circuit have not addressed factors 7 and 11 in “class action, percentage-of-the-fund” cases, because the factors are not relevant to class litigation. *Id.* at \*6.



**A. The Johnson Factors Support the Award of Fees**

The attorneys for the Class seek an award of fees of \$145,927.42. The fee request is less than 20 percent of the \$730,000 common fund settlement. The *Johnson* factors support this award.

**(i) *Factor 8: Class Counsel Secured a Significant Award for Class Members***

This Settlement will secure substantial benefits to each Class Member.

Class Members will receive on average of no less than \$19,934.75, which is a substantial figure, given the Class Members worked an average of around 70 days. Warner Decl. ¶ 6. This amounts to damages of roughly \$277 a day. Warner Decl. ¶ 6. This recovery is near or above what the class could expect to recover in compensatory damages if the class prevailed at trial. Warner Decl. ¶ 7 (noting that net recovery is above what the class would recover under Plaintiffs' damages model if a jury awarded \$200 a day in emotional distress damages); *see also Leiva v. Clute*, No. 4:19-CV-87-TLS-JPK, 2020 WL 8514822, at \*15-17 (N.D. Ind. Dec. 16, 2020) (noting that emotional distress damages range from \$171 to \$800 a day and awarding \$200 a day to a group of H2-A workers who were provid[ed] "substandard housing" and inadequate "access to food," and were threatened "with deportation and physical abuse"), *report and recommendation adopted*, No. 4:19-CV-87-TLS-JPK, 2020 WL 5519344 (N.D. Ind. Mar. 4, 2020).

**(ii) *Factors 1 and 4: Class Counsel Devoted Significant Time and Labor, Foregoing Other Work to Best Represent Class Members***

Counsel expended considerable time prosecuting the complex factual and legal issues presented in this Action. Over the past seven years, counsel from Legal Aid at Work and Equal Justice Center dedicated over 1618.15 hours to litigating this case. Warner Decl. ¶¶ 28, 31. Those reported hours do not include any time spent by Pro Bono counsel, the American Civil Liberties Union of Oklahoma or time spent by Class Counsel preparing this motion and the motion for the final approval, or time that will be spent by Class Counsel administering the Settlements after final approval is granted. Warner Decl. ¶¶ 28, 34.

Counsel engaged in significant efforts during this litigation, including:

- Investigating the case and drafting the Complaint;
- successfully opposing a motion to dismiss filed by Defendants;
- engaging in substantial pre- and post-certification discovery, including:
  - successfully moving for a protective order limiting the information Defendants could obtain regarding class members' present location;
  - taking ten fact witness depositions and two expert witness depositions;
  - defending five fact witness depositions and two expert witness depositions;
  - reviewing over 10,000 pages of documents produced by Defendants;
- successfully moving for class certification;
- successfully defeated Defendants' Rule 23(f) petition;
- successfully moving for sanctions after discovery defendants had not produced all relevant documents;

- preparing substantial pre-trial filings, including motions in limine, exhibit lists, witness lists, deposition designations and jury instructions;
- defending against two attempts to decertify the class;
- attempting to move for partial summary judgment;
- engaging in multiple day-long mediation sessions, and subsequently preparing a settlement agreement.

Warner Decl. ¶ 9.

During the seven years of litigating the Action, counsel from Legal Aid at Work and Equal Justice Center dedicated substantial resources to these that could have spent pursuing other opportunities. *See Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 455 (10th Cir. 1988) (considering class counsel’s preclusion from employment opportunities in analyzing the reasonableness of an attorneys’ fee award). LAAW has spent over 940 hours working on the case. Warner Decl. ¶ 28. EJC has spent over 678.15 hours working on the case. Warner Decl. ¶ 31; Willett Decl. ¶ 15. Although both firms are non-profits, both firms rely on attorneys’ fees in part to fund their operations. Warner Decl. ¶¶ 25, 27. Both firms regularly have to decline representation of workers with meritorious claims because of capacity constraints. *Id.*

**(iii) *Factors 5 and 12: The Requested Fee is Below Similar Cases***

Counsel requests a fee of \$145,927.42, which is less than 20 percent of the common fund. “Federal and state courts in Oklahoma often approve” fee requests of 40 percent of the common fund—over twice what is being asked of here. *Lee v. PetroQuest Energy, L.L.C.*, No. 16-CV-516-KEW, 2023 WL 2989948, at \*5 (E.D. Okla. Apr. 17,

2023); *Chieftain Royalty Co. v. SM Energy Co.*, No. CIV-18-1225-J, 2021 WL 11691282, at \*7 (W.D. Okla. Apr. 27, 2021).

**(iv) Factor 2: The Factual and Legal Questions Were Novel and Difficult**

This case was pursued under the prohibition against forced labor found in 18 U.S.C. § 1589, which was first enacted less than 25 years ago. The underlying claims present novel and difficult questions related to the scope of 18 U.S.C. § 1589, including the legal standard for establishing liability under subsections (a)(3), which imposes liability where a defendant has obtained labor “by means of the abuse or threatened abuse of law or legal process,” and (a)(4), which imposes liability where a defendant has obtained labor “by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm.” *See, e.g.*, Dkt. 292, Opposition to Amended Motion for Order Decertifying Class, at 11-14 (discussing ability to prosecute claim under subsection (a)(4) through classwide evidence), 14-16 (discussing ability to prosecute claim under subsection (a)(3) through classwide evidence).

**(v) Factors 6 and 10: Class Counsel Successfully Litigated an Action Without Promise of Compensation**

Counsel litigated this case on a pro bono basis that permits counsel to seek fees lesser of counsel’s lodestar or 25 percent of a settlement or judgment, after deduction of unreimbursed expenses. Warner Decl. ¶ 17. Counsel took this case even though it would not receive any compensation unless the Class achieved a favorable settlement or

judgment, and agreed to a legal services agreement that substantially restricted its ability to recovery fees. Counsel seeks even less than that agreement allows. *See* Warner Decl. ¶ 17. These facts justify the requested award.

**(vi) *Factors 3 and 9: The Skill,  
Experience, Reputation and Ability of Counsel***

The skill and ability of counsel also justifies this award. As discussed above, Class Counsel has undertaken extensive efforts to represent the Class in this case. Warner Decl. ¶ 9. Moreover, Class Counsel brings to the case significant experience in litigating cases on behalf of low-wage workers and victims on labor trafficking, as detailed in Counsel’s declarations supporting their appointment as class counsel. Warner Decl. ¶¶ 35-36.

**B. Class Counsel’s Lodestar Also Justifies the Award of Fees**

Although the Court need not engage in a lodestar cross check, *Rounds*, 2022 WL 16843240, at \*3 (citing cases), a review of the lodestar in this case shows that Class Counsel’s request is extremely reasonable. Other courts have recognized that a “negative multiplier” on the lodestar is “inherently reasonable.” *Hapka v. CareCentrix, Inc.*, No. 2:16-cv-02372-KGG, 2018 WL 1879845, at \*2 (D. Kan. Feb. 15, 2018). Here, counsel’s normal rates are higher than those used in Oklahoma, but, even using adjusted rates of \$200 to \$300 an hour for attorneys with between two and seventeen years of experience, which are reasonable in Oklahoma, the lodestar is still \$408,063.75. Warner Decl. ¶¶ 26-27, 34; *see also Brannon v. L & Y Consultants LLC*, No. 20-CV-00032-JFJ, 2021 WL 2624516, at \*2 (N.D. Okla. June 25, 2021) (concluding \$250 an hour is an

appropriate rate for a sixth-year attorney). Thus, based on conservative estimates of Oklahoma rates, the requested award of \$145,927.42 is a “negative multiplier” of 0.36 on the lodestar.

## II. THE REQUEST FOR COSTS IS REASONABLE

“[A]n attorney who creates or preserves a common fund for the benefit of a class is entitled to receive reimbursement of all reasonable costs incurred. Costs are awarded in addition to the attorney fee percentage.” *Vaszlavik v. Storage Tech. Corp.*, No. 95-B-2525, 2000 WL 1268824, at \*4 (D. Colo. Mar. 9, 2000) (citations omitted). Reasonable costs include “routine expenses related to copying, court fees, postage and shipping, phone charges, legal research, and travel and transportation, as well as expenses for experts, document production and review, and mediation.” *Chieftain Royalty Co. v. Marathon Oil Co.*, No. 6:17-cv-00334-SPS, 2019 WL 7759053, at \*3 (E.D. Okla. Mar. 8, 2019).

Plaintiffs request an award of \$69,072.58 in costs. These costs include the costs incurred by the pro bono attorneys in hiring experts, and paying for court reporters, translators and the first mediation session. Warner Decl. ¶ 22. Equal Justice Center and Legal Aid at Work’s costs largely consist of the cost to travel to Oklahoma. Warner Decl. ¶¶ 21-22; Willett Decl. ¶ 14. These costs are reasonable.

## III. THE REQUESTED SERVICE AWARDS ARE REASONABLE

Plaintiffs request a \$15,000 service award for each of the three Named Plaintiffs. “Named plaintiffs . . . are eligible for reasonable incentive payments as part of a class action settlement.” *German v. Holtzman Enters., Inc.*, No. 19-cv-03540-PAB-

STV, 2023 WL 3585212, at \*10 (D. Colo. May 22, 2023) (citation omitted). As the Supreme Court has recently observed, “[t]he class representative might receive a share of class recovery above and beyond her individual claim.” *China Agritech, Inc. v. Resh*, 138 S. Ct. 1800, 1811 n.7 (2018).

An incentive award is not just hourly compensation, rather it is intended to be an incentive for one or more class members to step outside their comfort zone, enter the fray of litigation, be burdened with document discovery, be embroiled in the constant stress of litigation, expose themselves to the scrutiny of a deposition, sit as a litigant in open court, and face the threat of retaliation from a defendant company with more power and money than they will ever know.

*Harris v. Chevron U.S.A., Inc.*, No. 6:19-cv-00355-SPS, 2020 WL 8187464, at \*7 (E.D. Okla. Feb. 27, 2020); *see also Harlow v. Sprint Nextel Corp.*, No. 08-2222-KHV, 2018 WL 2568044, at \*7 (D. Kan. June 4, 2018). When evaluating the reasonableness of a service award, courts consider “the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, the amount of time and effort the plaintiff expended in pursuing the litigation, and reasonable fears of workplace retaliation.” *German*, 2023 WL 3585212, at \*10. Oklahoma state and federal courts also have awarded service payments based on a percentage of the common fund, and have concluded that an award of two percent of the fund is an appropriate award in many cases. *Harris*, 2020 WL 8187464, at \*8.

All of these factors weigh in favor of a significant award. The Named Plaintiffs in this case have expended significant time and energy to prosecute this action since its inception in 2017. Warner Decl. ¶¶ 38, 40, 43. All have been subject to day-long depositions. *Id.* All have travelled to Oklahoma to pursue the claims. *Id.* The

Named Plaintiffs have also engaged in substantial informal discovery efforts, have assisted counsel in identifying the other Class Members during the course of the litigation and during the settlement process, and have kept other Class Members up to date about the state of the litigation.

The class representatives also were brave to pursue this action. The class representatives all had been subject to threats from Mr. Schumacher before the litigation commenced, yet chose to represent the Class nonetheless. Warner Decl. ¶¶ 39, 42, 44. Because of the class representatives' efforts, the Class Members will be able to obtain significant financial relief, averaging nearly \$20,000 per Class Member. Warner Decl. ¶ 6.

The service awards are also in line with awards granted in other cases in this District and the Tenth Circuit. *Beissel v. W. Flyer Express, LLC*, No. CIV-21-903-R, 2023 WL 7288735, at \*3 (W.D. Okla. Nov. 3, 2023) (granting \$25,000 in service awards in wage and hour class action and collective action); *Montgomery v. Cont'l Intermodal Grp.-Trucking LLC*, No. 19-940 GJF, 2021 WL 1339305, at \*9 (D.N.M. Apr. 9, 2021) (collecting cases and approving incentive payment of \$25,000); *Suaverdez v. Circle K Stores, Inc.*, No. 20-cv-01035-RM-NYW, 2021 WL 4947238, at \*11 (D. Colo. June 28, 2021) (citing cases in which service awards between \$15,000 and \$50,000 per plaintiff had been awarded), *report and recommendation adopted*, No. 1:20-cv-01035-RMR-NYW, 2021 WL 5513740 (D. Colo. Oct. 19, 2021); *Braver v. Northstar Alarm Servs., LLC*, No. CIV-17-0383-F, 2020 WL 6468227, at \*5 (W.D. Okla. Nov. 3, 2020) (approving incentive award of \$20,000 for named plaintiff); *Pliego v. Los Arcos Mexican*



*Rests., Inc.*, 313 F.R.D. 117, 131-32 (D. Colo. 2016) (approving service award of \$7,500 and citing with approval awards of \$50,000 and \$25,000 for individual named plaintiffs in other class action settlements).

**CONCLUSION**

For the reasons set forth above, the Court should grant Class Counsel's request for an award of \$145,927.42 for attorneys' fees, an award of costs of \$69,072.58, and \$15,000 service awards for each of the three Named Plaintiffs.

Dated: May 15, 2024

Respectfully Submitted,

*/s/ Catherine Fisher*

\_\_\_\_\_  
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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

MADELYN CASILAO, HARRY  
LINCUNA, and ALLAN GARCIA, on  
behalf of themselves and all others  
similarly situated,  
Plaintiffs,

v.

HOTELMACHER LLC, dba HOLIDAY  
INN EXPRESS; STEAKMACHER, LLC,  
dba MONTANA MIKE'S STEAKHOUSE;  
SCHUMACHER INVESTMENTS, LLC,  
dba WATER ZOO; APEX USA, INC.;  
WALTER SCHUMACHER; and  
CAROLYN SCHUMACHER,  
Defendants.

Case No.: CIV-17-800-SLP

**DECLARATION OF GEORGE A. WARNER**

I, GEORGE A. WARNER, pursuant to 28 U.S.C. § 1746, declare and state as follows:

1. I am an attorney duly licensed to practice law in the State of California and am one of appointed Class Counsel in the above-captioned case. This declaration is based upon my personal knowledge and is true to the best of my knowledge and belief.

2. I make this declaration in support of Plaintiffs' Unopposed Motion for Costs, Attorneys' Fees and Class Representative Service Awards.

**The Settlement Agreement**

3. Plaintiffs Madelyn Casilao, Harry Lincuna, and Allan Garcia, on behalf of themselves and all other members of the putative class (collectively, "Plaintiffs"), and

Defendants Hotelmacher LLC, DBA Holiday Inn Express; Steakmacher, LLC, DBA Montana Mike's Steakhouse; Schumacher Investments, LLC, DBA Water Zoo; Apex USA, Inc.; Walter Schumacher; and Carolyn Schumacher ("Defendants") have reached an agreement to settle this Action pursuant to the terms of the Settlement Agreement, Dkt No. 302-2.

4. The Settlement Class, which is defined identically to the Class already certified by this Court, includes 23 people.

5. The Settlement provides substantial benefits to the members of the Class. The Settlement provides a non-reversionary settlement fund of \$730,000. The Settlement allocates funds for settlement administration and allows counsel to seek approval to receive compensation for costs, attorneys' fees, and class representative service awards from the settlement fund. The net settlement fund, after the maximum allocations allowed under the agreement, will be at least \$458,500.

6. The Class Members spent in total 1,624 days in Clinton, Oklahoma while working for Defendants, according to the new hire forms in the personnel files produced by Defendants, payroll records and letters of resignation in the personnel files. On average, the Class Members spent slightly less than 71 days in Clinton, Oklahoma while working for Defendants. Class Members will receive, on average, over \$19,934.78 from the settlement, or around \$282 a day for time spent in Clinton, Oklahoma while working for Defendants. This amounts to a substantial recovery on the Class Members' claims.

7. Class Member distributions are allocated according to a damages model prepared by Class Counsel in preparation for trial, based on discovery produced by

Defendants and pertinent case law. Compensatory damages included in the damages model used to calculate distribution payments are recruitment and travel costs, estimated at \$3,000 for all Class Members, uncompensated living expenses, estimated at \$185 a week, and emotional distress damages, which were estimated at \$400 a day. For purposes of settlement distributions, Plaintiffs did not include estimated wage damages, as those damages were de minimis compared to other sources of damages and covered in large part by the enforcement action brought by the Department of Labor under the Fair Labor Standards Act. Based on this damages model, the Class could recover \$761,520 in compensatory damages if meritorious at trial. If a jury awarded \$200 a day in emotional distress damages, the Class would only recover \$436,720, which is less than the net settlement fund.

8. As discussed in greater detail in the Settlement Agreement, the notice plan and distribution plan are intended to reach as many Class Members as possible. Substantial efforts are being made to provide notice of the Settlement to Class Members, and Class Members are being provided the option to request payment via a number of secure electronic means, including ACH and PayPal, or by physical check. If a Class Member does not fill out a claim form, a check will be mailed to the Class Member so long as Class Counsel or the claims administrator is aware of an address that has been associated with the class member. If a claimant does not cash the check within 60 days of the date it was mailed, the Settlement contemplates a second opportunity for Class Members to receive notice of the Settlement and request payment before any residual

distributions are made. The claims administrator is also able to send payments to Class Members who live internationally.

### **Litigation Prior to Settlement**

9. Class Counsel engaged in substantial litigation in this matter:
  - a. Class Counsel successfully opposed Defendants' motions to dismiss all claims and strike the class allegations. Dkt. Nos. 39, 46.
  - b. Counsel reviewed the discovery produced by the Defendants in this action and related action, *Francis v. APEX USA Inc.*, No. 5:18-cv-583-SLP (W.D. Okla.). Defendants produced over 10,000 pages in this action, and over 30,000 pages of documents between the two actions. Counsel also produced relevant documents from each Plaintiff.
  - c. Class Counsel engaged two human trafficking experts to submit reports regarding human trafficking and its impact on the Class.
  - d. Class Counsel took twelve depositions in this action over the course of three years.
  - e. Class Counsel defended seven depositions in this action, including the depositions of the three named plaintiffs, two additional class members, and two experts.
  - f. Class Counsel also engaged in significant informal discovery. Among other efforts, Class Counsel conducted interviews with a number of Class Members, filed public records requests on a number of agencies, including the Department of Homeland Security and the Department of

State, interviewed other former employees of Defendants, and conducted research on Defendants' business structures.

- g. Class Counsel successfully opposed a motion to compel and moved for a protective order to prevent the disclosure of Class Members' current locations, immigration and employment status in January 2020. Dkt Nos. 85, 88. The protective order was granted on February 4, 2020. Dkt. No. 96.
- h. Plaintiffs moved for class certification in September 2020. Dkt. No. 139. The Court granted this motion in September 2021 and shortly thereafter appointed Plaintiff's counsel as Class Counsel. Dkt. Nos. 187, 197.
- i. Class Counsel defeated an effort by Defendants to have the class certification order overturned by the Tenth Circuit under Federal Rule of Civil Procedure 23(f). *Hotelmacher, LLC v. Casilao*, No. 21-601 (10th Cir. Oct. 25, 2021).
- j. Class Counsel prepared significant pretrial filings in advance of the initial pretrial conference in October 2022, including proposed exhibit lists, proposed deposition designations, proposed jury instructions, proposed voir dire, and motions in limine. Dkt. Nos. 232-333, 235, 237-39, 247-48.
- k. Class Counsel moved for discovery sanctions in September 2022, which were in large part granted in October 2022. Dkt. Nos. 267, 277.

- l. Plaintiffs prepared oppositions to both Defendants' initial motion to decertify the Class and Defendants' renewed motion to decertify the Class. Dkt. Nos. 224, 292.
- m. Plaintiffs also drafted a motion for partial summary judgment and a motion for further discovery sanctions. Neither motion was filed at the time a settlement was agreed to in this case. Dkt. Nos. 284-86.

### **Efforts at Mediation**

10. Class Counsel, Defendants' counsel, and counsel for Philadelphia Indemnity Insurance Company, which insured one of the Defendants, engaged in substantial efforts to reach a settlement in this case. On April 12, 2023, the parties attended a full-day mediation with Joe Hampton, a respected mediator in employment cases. Plaintiffs Casilao, Lincuna and Garcia were available by phone during this mediation.

11. The parties engaged in a full-day settlement conference on November 8, 2023, with Magistrate Judge Suzanne Mitchell. Plaintiff Casilao attended this settlement conference in person, and Plaintiffs Lincuna and Garcia were available by phone. In advance of that conference, the parties engaged in substantial discussion and exchange of offers.

12. After the parties reached a tentative agreement on November 8, 2023, the parties exchanged drafts of a comprehensive settlement agreement. The Settlement Agreement was signed on January 26, 2024.



**Efforts to Obtain Contact Information for All Class Members**

13. In December 2021, the Court approved the Plaintiffs’ proposed notice to the Class of the certification decision, and Plaintiffs distributed the approved class notice by email, website and publication. No Class Member contacted Class Counsel to opt-out of the Class following distribution of the Class Notice.

14. Class Counsel are in active communication with the vast majority of the Class. Since the settlement conference, Class Counsel has engaged in email or phone correspondence with 21 of the 23 Class Members, after sending a solicitation to Class Members with known email addresses asking for updated contact information, and requesting that the Class Members connect Class Counsel if they have information regarding the remaining Class Members who were not in touch with Class Counsel.

15. Class Counsel has also searched for updated contact information for Class Members using Lexis People Search, Accurint and Facebook, and has identified a reliable mailing address for one of the remaining two Class Members.

16. Upon information and belief, the other Class Member who Class Counsel is not in touch with is now deceased.

**Class Counsels’ Engagement with Plaintiffs**

17. ACLU of Oklahoma, Equal Justice Center (“EJC”) and Legal Aid at Work’s (“LAAW”) engagement agreement with the three named Plaintiffs allows ACLU of Oklahoma, Equal Justice Center and Legal Aid at Work to seek an award of unreimbursed costs and expenses, and allows counsel to receive an amount not to exceed

the lesser of counsel's lodestar or 25 percent of the settlement amount, after deducting unreimbursed costs.

18. The agreement between the three Named Plaintiffs and pro bono attorney Eben Colby and the attorneys assisting him likewise allows pro bono counsel to seek an award for unreimbursed costs and reasonable attorneys' fees.

**Costs Expended by Class Counsel**

19. Class Counsel have expended significant resources to prosecute this action:

20. LAAW is seeking reimbursement for \$7,074.31 in reimbursable costs.

LAAW requests reimbursement for \$4,902.11 in travel costs related to attending hearings, mediation, and depositions in Oklahoma. LAAW also requests reimbursement for \$900 for costs associated with advertisements used to reach Class Members after the certification of the Class, \$848.70 in translation services used, and \$423.50 paid to court reporters for copies of deposition transcripts.

21. EJC is seeking reimbursement of \$2,137.27 in reimbursable costs, which are entirely costs associated with travel to and from Oklahoma to attend hearings, mediation, and depositions in Oklahoma.

22. Pro bono counsel has paid for a large majority of the expenses associated with prosecuting this action. Pro bono counsel seeks reimbursement of \$59,861, which includes \$22,345.63 for court reporter fees for depositions, \$31,660.44 for retaining the two experts in this action, \$4,355.50 for translators and interpreters, and \$1,501 for the private mediator for the first mediation session. Pro bono counsel is not seeking reimbursement of travel costs and other expenses incurred.

23. ACLU of Oklahoma is not seeking reimbursement for expenses or attorneys' fees.

**Class Counsel's Billing Rates and Hours Spent**

24. LAAW establishes hourly rates for its attorneys and paralegal staff, based on the prevailing rates charged by San Francisco Bay Area practitioners. These hourly rates are derived from a survey LAAW conducts periodically, which takes into account the billing rates charged by for-profit San Francisco Bay Area law firms for attorneys of comparable experience doing comparable work, as well as rates utilized by comparable non-profit public interest organizations for the same purpose. Such rates are also based upon other information received from private attorneys relating to the rates charged by San Francisco Bay Area law firms for comparable litigation. Prior to LAAW implementing a new rate schedule, a subset of LAAW board members reviews the proposed rates to determine if they believe such rates were reasonable based on their own litigation experience and based upon board members' private law firm rates. In addition, the LAAW Board approved LAAW's 2024 rates.

25. I believe that based upon recent fee awards to San Francisco Bay Area attorneys in employment and civil rights cases, LAAW's hourly rates are at or below market for similar kinds of work. All of the hourly rates Plaintiff seeks with respect to LAAW's work on this matter are based upon the surveys and other information referred to herein.

26. LAAW relies on attorneys' fees to fund ongoing operations. LAAW attorneys regularly have to turn down representation of viable actions on behalf of low-

wage workers because of limited capacity among staff to represent clients with viable claims.

27. Counsel from LAAW have the following billable rates as of 2023, based on their current years of experience. Counsel have also submitted proposed rates to adjust for lower rates that appear to be the norm in Oklahoma, based on a conservative assessment of customary rates for lawyers in Oklahoma performing similar work. *See Weiser v. Pathway Servs. Inc.*, No. 17-CV-673-GKF-FHM, 2019 WL 6723563, at \*3 (N.D. Okla. Aug. 26, 2019); *Tabb v. Mentor Prot. Serv. LLC*, No. CIV-17-1130-D, 2018 WL 5269828, at \*3 (W.D. Okla. Oct. 23, 2018).

Counsel Name	Graduation Year	San Francisco Billable Rate	Estimated Conservative Oklahoma Billable Rates
George Warner	2017	\$650	\$250
Carole Vigne	2007	\$860	\$300
Mana Barari	2007	\$860	\$300
Bradán Litzinger	2022	\$445	\$200

28. EJC relies on attorneys' fees to fund ongoing operations. EJC attorneys regularly have to turn down representation of viable actions on behalf of low-wage workers because of limited capacity among staff to represent clients with viable claims. Counsel from EJC have the following billable rates, based on their current years of experience. These rates are set by Christopher J. Willett, who is familiar with the customary hourly rates of attorneys and support staff in employment litigation. Based on his knowledge and experience in this area of practice, and a review of fee awards awarded to Equal Justice Center in the last decade, it is his opinion the following rates are

reasonable compared to attorneys and staff of comparable skill, expertise, and experience in employment litigation.

29. Counsel have also submitted conservatively estimated proposed rates to adjust for lower rates that appear to be at or below the norm in Oklahoma, based on counsel's understanding of the Oklahoma legal market. Additional information about counsel's experience is included in Mr. Willett's declaration.

Counsel Name	Graduation Year	Texas Billable Rate	Conservative Oklahoma Billable Rates
Christopher J. Willett	2009	\$485	\$300
Caitlin Boehne	2012	\$440	\$275
Rebecca Eisenbrey	2015	\$395	\$250
Daniel Pham	2019	\$350	\$200

30. Class Counsel has spent significant time on this case. Counsel from Legal Aid at Work have spent over 940 hours of time on this case, as documented in time recorded by staff, as of January 8, 2024. Time from 14 other timekeepers at Legal Aid at Work has been excluded, as has significant time spent by Mr. Warner to prepare the motion for preliminary approval of this settlement, and prepare this motion. It also excluded significant work expected on the forthcoming motion for final approval and settlement administration.

<b>Category of Work</b>	<b>Hours Spent by George Warner</b>	<b>Hours Spent by Mana Barari</b>	<b>Hours Spent by Carole Vigne</b>	<b>Hours Spent by Bradan Litzinger</b>
Work related to investigation and drafting of complaint	0	130.6	8	0

<b>Category of Work</b>	<b>Hours Spent by George Warner</b>	<b>Hours Spent by Mana Barari</b>	<b>Hours Spent by Carole Vigne</b>	<b>Hours Spent by Bradan Litzinger</b>
Work related to defending against Motion to Dismiss	0	24.7	2.4	0
Conducting discovery prior to class certification	221.8	18.2	37.3	0
Work related to motion for class certification	66	0	0	0
Work related to defending against Rule 23(f) petition	18.4	0	0	0
Conducting discovery after class certification	132.8	0	0	24.6
Work related to defending first motion to decertify the class	33.6	0	0	0
Work related to motion for sanctions	38.9	0	0	1.4
Work related to pre-trial filings	28.2	0	0	2.5
Work related to defending renewed motion to decertify the class	11.1	0	0	0
Work related to preparing motion for partial summary judgment	27.8	0	0	39.7
Work related to efforts to mediate case and settle the case	67.1	0	0	11
<b>Total Hours</b>	<b>645.7</b>	<b>173.5</b>	<b>47.7</b>	<b>79.2</b>
<b>Total Lodestar Using California Rates</b>	<b>\$419,705</b>	<b>\$149,210</b>	<b>\$41,022</b>	<b>\$35,244</b>

<b>Category of Work</b>	<b>Hours Spent by George Warner</b>	<b>Hours Spent by Mana Barari</b>	<b>Hours Spent by Carole Vigne</b>	<b>Hours Spent by Bradan Litzinger</b>
Total Lodestar Using Estimated Oklahoma Rates	\$161,425	\$52,050	\$14,310	\$15,840

31. Based on counsel's billable rates in California, counsel for LAAW would have a lodestar of \$645,181.

32. Based on counsel's adjusted rates, accounting for lower customary rates in Oklahoma, counsel for LAAW would have a lodestar of \$243,625.

33. Counsel from EJC have recorded 678.15 hours of time to prepare this case, as documented in detailed, contemporaneous records of time spent on each task that was necessary to litigate this matter. Additional detail about EJC's time is documented in the Declaration of Christopher J. Willett.

34. Based on counsel's billable rates in Texas, counsel for EJC would have a lodestar of \$286,871.50.

35. Based on counsel's adjusted rates, based on counsel's conservative estimates of customary rates in Oklahoma, counsel for EJC would have a lodestar of \$164,438.75.

36. Between EJC and LAAW, based on counsel's conservative estimates of customary rates in Oklahoma, counsel has a total lodestar of \$408,063.75. Pro bono counsel has also performed significant work in the prosecution of this action. Pro bono counsel is not seeking fees for that work.

### **Class Counsel's Experience**

37. Class Counsel has extensive collective experience litigating class actions on behalf of low-wage workers, including H2-B workers, and extensive experience bringing claims under 18 U.S.C. § 1589, as detailed in the Declarations of Eben P. Colby, Christopher J. Willett, George A. Warner and Megan Lambert in support of Plaintiffs' Motion for Class Certification. Dkt. Nos. 140-50, 140-51, 140-52, 140-53.

38. Since class certification, LAAW has continued to litigate cases on behalf of low-wage workers. Our class and collective actions include the following cases:

- a. A collective action on behalf of 17 farmworkers who were not paid for all the strawberry boxes they picked for Seventh Tree Farms and Durango Harvest, companies that picked strawberries for Driscoll's in Oxnard, California. The case also includes a Private Attorney General Act claim on behalf of hundreds of additional farmworkers that picked strawberries. The lawsuit was filed in 2023, and is pending in Ventura County Superior Court.
- b. An action on behalf of a group of roughly 370 campaign workers who were misclassified as independent contractors by a campaign operator working on the 2019 campaign sponsored by Juul Labs, Inc. to allow for the sale of vaping products in San Francisco. After defeating a motion to compel arbitration and a motion to dismiss the claims against Juul Labs, Inc., Legal Aid at Work, with its co-counsel Leonard Carder,



secured a settlement of \$1.75 million by Juul and the other defendants that was approved by the Northern District of California.

- c. An action against the California agency that administers unemployment insurance on behalf of claimants who were denied unemployment insurance benefits or determined liable for an overpayment, alleging that the agency's process for notifying claimants of these decisions violates due process because it fails to adequately inform claimants. That case is pending in Alameda County Superior Court.

### **Class Representatives' Efforts to Support This Litigation**

39. Named Plaintiffs Ms. Casilao, Mr. Lincuna, and Mr. Garcia have engaged in substantial efforts since before this lawsuit was filed to make sure that this case was successful for the entire Class.

40. Ms. Casilao has spent an estimated 300 hours working on this lawsuit. She:
  - a. Reached out to attorneys to consider the case;
  - b. Reviewed the allegations in the complaint and assisted with the factual development of the complaint;
  - c. Attended her own all-day deposition at Legal Aid at Work's offices in San Francisco, which required her to take significant time off of work;
  - d. Gathered documents responsive to Defendants' discovery requests;
  - e. Reviewed interrogatory requests and responses prepared with the assistance of counsel;

- f. Assisted Class Counsel with the preparation of her nine-page declaration in support of class certification;
- g. Communicated with counsel before, during and after settlement discussions with the Defendants;
- h. Travelled to Oklahoma City to attend in person the mediation with Magistrate Judge Mitchell, which required her to take significant time off of work;
- i. Communicated updates about the case to other Class Members directly; and
- j. Helped Class Counsel locate class members who were not in touch with class counsel before filing the lawsuit in anticipation of the motion for class certification and for settlement purposes.

41. Ms. Casilao brought this lawsuit even though the experience was extremely traumatic for her, and she remains afraid of Mr. Schumacher. As she explained in her declaration in support of class certification, “[e]very time I have to talk about [the experience], it’s like a ghost hunting me. It’s painful to talk about. I still have nightmares about that time, and I am still afraid of Mr. Schumacher.” Dkt. TK, at ¶ 18. Ms. Casilao’s fear stems from the fact that Mr. Schumacher worked for the police, and an encounter she had with Mr. Schumacher after her visa expired and she had left Clinton. *Id.* at ¶¶ 14-55. When Ms. Casilao called to ask for her W-2, Mr. Schumacher told her that he could not provide her a W-2 because he had sent it to immigration; Ms. Casilao reasonably interpreted this comment as a threat. *Id.* at ¶ 14. Ms. Casilao was afraid to go

to Oklahoma for the mediation, and was even afraid to see Mr. Schumacher on Zoom during her remote deposition. She nonetheless went to Oklahoma to mediate this case, because she recognized it was important for a Class Representative to attend that session.

42. Mr. Lincuna has spent an estimated 200 hours working on this lawsuit. He has:

- a. Reviewed the allegations in the complaint and assisted with the factual development of the complaint;
- b. Attended his own all-day deposition in Oklahoma City, which required him to take significant time off of work;
- c. Gathered documents responsive to Defendants' discovery requests;
- d. Reviewed interrogatory requests and responses prepared with the assistance of counsel;
- e. Assisted Class Counsel with the preparation of his nine-page declaration in support of class certification;
- f. Communicated with counsel before, during and after settlement discussions with the Defendants;
- g. Communicated updates about the case to other class members; and
- h. Helped Class Counsel locate Class Members who were not in touch with Class Counsel, before filing the lawsuit, in anticipation of the motion for class certification, and for settlement purposes.

43. Mr. Lincuna also called a human trafficking hotline to report the abuse by Mr. Schumacher while he was employed by Mr. Schumacher in 2012, Dkt. 140-29 at ¶ 15.

44. Mr. Lincuna filed this case despite thinking that he could be retaliated against for filing this lawsuit. As he stated in his declaration in support of class certification:

After I reported the Schumachers, there were rumors going around among the employees that if somebody else reported them to the hotline or the Department of Labor, Mr. Schumacher would have us deported to the Philippines. Because of those threats, I left in the middle of the night without telling anyone at the hotel.

Dkt. 140-29 at ¶ 16.

45. Mr. Garcia has spent an estimated 150 hours working on this lawsuit. He has:

- a. Reviewed the allegations in the complaint and assisted with the factual development of the complaint;
- b. Attended his own all-day deposition in Oklahoma City, which required him to take significant time off of work;
- c. Gathered documents responsive to Defendants' discovery requests;
- d. Reviewed interrogatory requests and responses prepared with the assistance of counsel;
- e. Assisted Class Counsel with the preparation of his nine-page declaration in support of class certification;

- f. Communicated with counsel before, during and after settlement discussions with the Defendants;
- g. Communicated updates about the case to other class members; and
- h. Helped Class Counsel locate Class Members who were not in touch with Class Counsel, before filing the lawsuit and in anticipation of the motion for class certification.

46. Mr. Garcia filed this lawsuit despite being extremely fearful of Mr. Schumacher, who tried to intimidate Mr. Garcia on his first day in the United States. In his declaration in support of class certification, he reported multiple threats from Mr. Schumacher:

From the first time I met him, I was very scared of Mr. Schumacher. The very first time we met, he made a point of telling me that he had a gun, and when I spoke with him at the restaurant about the promised reimbursement of my airfare, he talked about me being sent home in a box. He also told us that he could have us deported. The threat to go home in a box, the threat that he has a gun in the car, and the threat that he would deport us was a threat to me, to my life, personally, and to my family.

Dkt. 140-30 at ¶ 15. He also wrote:

I have never been more scared or felt more vulnerable in my life. I was afraid for myself and for my family, because I did not know what would happen to us if I was not able make money. That is why I complained to Mr. and Mrs. Schumacher about their broken promises, even though I was scared of Mr. Schumacher and of being deported.

*Id.* at ¶ 18.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 15, 2024, in San Francisco, California.

s/ George A. Warner

(Signed by Filing Attorney with permission of Attorney)

s/ Catherine Fisher

(Filing Attorney)

George A. Warner

Calif. Bar No. 320241

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

MADELYN CASILAO, HARRY  
LINCUNA, and ALLAN GARCIA, on  
behalf of themselves and all others  
similarly situated,  
Plaintiffs,

v.

HOTELMACHER LLC, dba HOLIDAY  
INN EXPRESS; STEAKMACHER, LLC,  
dba MONTANA MIKE'S STEAKHOUSE;  
SCHUMACHER INVESTMENTS, LLC,  
dba WATER ZOO; APEX USA, INC.;  
WALTER SCHUMACHER; and  
CAROLYN SCHUMACHER,  
Defendants.

Case No.: CIV-17-800-SLP

**DECLARATION OF CHRISTOPHER J. WILLETT**

1. My name is Christopher J. Willett. I am over the age of 21, of sound mind, and competent to make this declaration.

2. I am employed by the Equal Justice Center (“EJC”), which represented the Plaintiffs in this litigation. The EJC is a nonprofit, public-interest law firm with offices in Texas that specializes in representing low-wage workers in employment-related legal matters. The EJC has recovered millions of dollars in unpaid wages and damages on behalf of thousands of low-income workers since it was founded in 2001.

3. I graduated from the University of Texas School of Law in 2009 with honors and have been licensed to practice law in Texas since 2009. I have presented lectures on the FLSA and representing low-income workers in employment law cases at the University of

Texas School of Law Labor and Employment Law Conference CLE and at CLE seminars of the Texas Bar's Poverty Law Section, National Employment Lawyers Association, Texas Employment Lawyers Association, and the National Legal Aid & Defender Association. Throughout the course of this litigation, I have served as one of three senior managing attorneys who supervise all of EJC's employment litigation. I have also served as an Co-Director for the Transnational Worker Rights Clinic at the University of Texas School of Law, operated in partnership with the Equal Justice Center, through which I help train law students and supervise their work in employment litigation.

4. Caitlin Boehne, Rebecca Eisenbrey, and I have worked as attorneys at the Equal Justice Center in Texas and have been admitted pro hac vice to represent Plaintiffs in this matter. Duchoang Daniel Pham is an attorney at the Equal Justice Center and has provided legal services in this matter.

5. Caitlin Boehne graduated from the University of Texas School of Law in 2012. She has been licensed to practice law in Texas since 2012, and worked as an attorney with the EJC since 2012 and has focused on representing low-income workers in employment matters. From 2016 until 2018, Ms. Boehne co-chaired the State Bar of Texas' Employment Law Task Force, hosting CLE presentations on various matters related to employment law for low-wage workers. In June 2023, Ms. Boehne moved to a new position in private practice as an attorney at the Kaplan Law Firm in Austin, Texas, where she continues to practice employment litigation. Caitlin Boehne currently offers an hourly rate of \$575 per hour to clients throughout Texas.

6. Rebecca Eisenbrey is a 2015 graduate of the University of Michigan Law School,



where she was awarded the Henry M. Bates Memorial Scholarship—widely regarded as institution’s highest honor. Before joining the EJC an Equal Justice Fellow and staff attorney in the fall of 2017, Ms. Eisenbrey spent two years clerking for the Honorable James L. Dennis on the Fifth Circuit Court of Appeals in New Orleans, Louisiana. Ms. Eisenbrey is a member of the Texas Employment Lawyers Association, and currently serves as co-chair of the Employment Law Task Force of the State Bar of Texas, developing and hosting CLE presentations on various matters related to practicing employment law on behalf of low-wage workers. Ms. Eisenbrey withdrew as Class Counsel in July 2021 and moved to a new position as an attorney at the Project of Predatory Student Lending, in Boston, Massachusetts.

7. Daniel Pham graduated from Duke University School of Law in 2019 and has been licensed to practice in Texas since 2019. He has worked as an attorney at the Equal Justice Center since September 2019. He is a member of the Texas Employment Lawyers Association, and has served as co-chair of the Employment Law Task Force of the State Bar of Texas, in which he prepared and led CLE presentations and trainings for lawyers who practice employment law on behalf of low-wage workers.

8. I am familiar with the customary hourly rates of attorneys and support staff in employment litigation throughout Texas. Based on my knowledge and experience in this area of practice, it is my opinion the following rates are reasonable compared to attorneys and staff of comparable skill, expertise, and experience in employment litigation in the Northern District of Texas market:

- a. Christopher Willett (Attorney), JD 2009: \$485 per hour;

- b. Caitlin Boehne (Attorney), JD 2012: \$440 per hour;
- c. Rebecca Eisenbrey (Attorney), JD 2015: \$395 per hour; and
- d. Daniel Pham (Attorney), JD 2019: \$350 per hour.

9. I know that lawyers of comparable skill, expertise, and experience in employment litigation who are in private practice and charge their clients at rates substantially higher than these amounts.

10. I have reviewed fee awards to myself and other attorneys and staff at the Equal Justice Center to compare rates in recent awards. For example, I have been awarded fees at a rate of \$485 per hour in *Cortes-Castillo v. One Time Construction Texas LLC*, 3:21-cv-2093 (N.D. Tex., Dallas Div., Sep. 8, 2023). I have also been awarded fees at a requested hourly rate of \$405 per hour in the following cases: *Mendez v. CJR Framing, Inc.*, 3:19-cv-91429 (N.D. Tex., Dallas Div., Jan 22, 2021); *Barrientos v. Mikatuski, Int'l, Inc.*, 1:18-cv-934 (W.D. Tex., Austin Div., Aug. 10, 2020); *Raya v. Yocham*, 1:17-cv-820 (W.D. Tex., Austin Div., May 13, 2020); and *Moctezuma v. Islas*, 4:18-cv-342 (E.D. Tex., Sherman Div., May 7, 2020). Caitlin Boehne was awarded fees at a rate of \$440 per hour in *Cortes-Castillo v. One Time Construction Texas LLC*, 3:21-cv-2093 (N.D. Tex., Dallas Div., Sep. 8, 2023). Caitlin Boehne was also awarded fees at a rate of \$360 per hour in *Barrientos v. Mikatuski, Int'l, Inc.*, 1:18-cv-934 (W.D. Tex., Austin Div., Aug. 10, 2020). Ms. Khader was awarded fees at a rate of \$375 per hour in *Moctezuma v. Islas*, 4:18-cv-342 (E.D. Tex., Sherman Div., May 7, 2020). A recent court case found the following rates reasonable for EJC attorneys and paralegals: \$500 per hour for Aaron Johnson (JD 2008), \$395 per hour for Colleen Mulholland (JD 2015). *Valdepena v. Nuestro Sagrado Corazon Primary Home Care Inc.*, 5:19-cv-94, 2022 U.S. Dist. LEXIS 192863, at \*6-7 (S.D. Tex.

Sep. 15, 2022).

11. After reviewing the fee awards, and based on my knowledge of the hourly rates charged by private employment law attorneys, the requested rates are reasonable and well within the range of what attorneys with comparable skill and experience charge.

12. The EJC and I have maintained detailed, contemporaneous records of our time spent on each task that was necessary to litigate this matter, which are summarized in the chart attached hereto as Exhibit A.

13. I have exercised billing judgment to write off time for duplicative tasks or to reduce time for work that may have been unproductive or inefficient. Any entries appearing in the attached records showing that multiple professionals spent time working simultaneously on the same or related tasks reflects that the professionals divided the task into discrete subparts and split the work on those subparts between them. All time for tasks that could have been performed by fewer timekeepers either was written off or was never recorded in the attached time records. We have had several attorneys working on this matter throughout the litigation, but this was necessary due to the fact that this was not an individual plaintiff, but a group of three plaintiffs seeking to prosecute claims on behalf of a class, and the work was divided among the attorneys.

14. The EJC has litigation expenses for certain categories that are nontaxable costs in this matter. The expenses include costs for litigation-related travel to and from Oklahoma for a total amount of \$2,137.27.

15. To date, the EJC has recorded 678.15 hours litigating this matter. However, after writing off numerous hours in the exercise of billing judgment, EJC has reduced the

lodestar by approximately 10%, and has calculated a total lodestar of \$286,871.50. The lodestar amount includes the following:

- a. Christopher Willett: 73.1 hours at a rate of \$485 per hour;
- b. Caitlin Boehne: 334.85 hours at a rate of \$440 per hour;
- c. Rebecca Eisenbrey: 189.7 hours at a rate of \$395 per hour; and
- d. Duchoang Daniel Phame: 15 hours at a rate of \$350 per hour.

16. The legal work for which Plaintiffs seek to recover fees in this matter includes: (i) preparing and filing the lawsuit; (ii) discovery-related work prior to class certification; (iii) responding to a motion to dismiss; (iv) drafting and conducting legal research for Plaintiff's Motion for Class Certification; (v) post-certification discovery; (vi) participation in settlement efforts; (vii) trial preparation, including pre-trial pleadings, related legal research, strategy and planning conferences, client meetings.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 15, 2024, in Travis County, State of Texas.

s/ Christopher J. Willett  
(Signed by Filing Attorney with permission of Attorney)

s/ Catherine Fisher  
(Filing Attorney)

Christopher J. Willett, Pro Hac Vice  
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# EXHIBIT A

<b>Attorney/Case Stage</b>	<b>Hours (Billed)</b>	<b>Total Lodestar Using Texas Rates</b>	<b>Total Lodestar Using Oklahoma Rates</b>
<b><i>Caitlin Boehne</i></b>	<b><i>334.85</i></b>	<b><i>\$162,470.00</i></b>	<b><i>\$92,083.75</i></b>
Class Certification	72.4	\$33,748.00	\$19,910.00
Complaint	4.6	\$2,552.00	\$1,265.00
Post-Certification Discovery	43.1	\$19,624.00	\$11,852.50
Pre-Certification Discovery	151.5	\$78,100.00	\$41,662.50
Pre-trial	53.15	\$24,002.00	\$14,616.25
Sanctions	10.1	\$4,444.00	\$2,777.50
<b><i>Christopher Willett</i></b>	<b><i>73.1</i></b>	<b><i>\$35,938.50</i></b>	<b><i>\$21,930.00</i></b>
Complaint	14.2	\$7,372.00	\$4,260.00
Motion Dismiss	26.3	\$12,755.50	\$7,890.00
Post-Certification Discovery	1.9	\$921.50	\$570.00
Pre-Certification Discovery	30.7	\$14,889.50	\$9,210.00
<b><i>Daniel Pham</i></b>	<b><i>15</i></b>	<b><i>\$5,250.00</i></b>	<b><i>\$3,000.00</i></b>
Pre-Certification Discovery	4.5	\$1,575.00	\$900.00
Pre-trial	10.5	\$3,675.00	\$2,100.00
<b><i>Rebecca Eisenbrey</i></b>	<b><i>189.7</i></b>	<b><i>\$80,343.00</i></b>	<b><i>\$47,425.00</i></b>
Class Certification	32.3	\$12,758.50	\$8,075.00
Pre-Certification Discovery	157.4	\$67,584.50	\$39,350.00
<b>Grand Total</b>	<b>612.65</b>	<b>\$286,871.50</b>	<b>\$164,438.75</b>