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14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OMAR ZINE, individually, and on behalf of
 17 other members of the general public similarly
 situated,

18 Plaintiff,

19 vs.

20 NESPRESSO USA, INC., a Delaware
 corporation; and DOES 1 through 10, inclusive,

21 Defendants.

22 WILLIAM BABER, an individual, on behalf of
 23 himself and all others similarly situated and
 aggrieved,

24 Plaintiff,

25 vs.

26 NESPRESSO USA, INC., a Delaware
 corporation; NESTLE USA, INC., a Delaware
 corporation; and DOES 1 through 100, inclusive,

27 Defendants.
 28

Case No.: 3:20-cv-05144-SK
 Consolidated with 3:21-cv-00487-JSC

Assigned to the Hon. Sallie Kim

**NOTICE OF MOTION AND MOTION FOR
 FINAL APPROVAL OF CLASS ACTION
 AND PAGA SETTLEMENT;
 MEMORANDUM OF POINTS AND
 AUTHORITIES**

Date: May 8, 2023
 Time: 9:30 a.m.
 Place: Courtroom C

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 8, 2023 at 9:30 a.m., or as soon thereafter as counsel
3 may be heard, in Courtroom C of the above-captioned court, located at 450 Golden Gate Avenue, San
4 Francisco, California 94102, the Honorable Sallie Kim presiding, Plaintiffs Omar Zine and William
5 Baber will, and hereby do, move this Court for entry of an order and judgment granting final approval of
6 the class action settlement and all agreed-upon terms therein. This Motion, unopposed by Defendant
7 Nespresso USA, Inc., seeks final approval of: (1) the Joint Stipulation of Class Action and PAGA
8 Settlement and Release, (2) settlement payments to Participating Class Members and the LWDA, and
9 (3) costs/expenses to the settlement administrator, CPT Group, Inc.

10 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
11 Points and Authorities in Support of Motion for Final Approval of Class Action Settlement; (3) the
12 previously filed Motion for Attorneys' Fees, Costs and Expenses, and Class Representative
13 Enhancement Payments and supporting declarations; (4) the Declaration of Raul Perez; (5) the
14 Declaration of Cheryl A. Kenner; (6) the Declaration of Irvin Garcia on behalf of CPT Group, Inc.; (7)
15 the [Proposed] Order Granting Final Approval of Class Action and PAGA Settlement; (8) the
16 [Proposed] Judgment; (9) the records, pleadings, and papers filed in this action; and (10) upon such other
17 documentary and/or oral evidence as may be presented to the Court at the hearing.

18
19 Dated: April 4, 2023

Respectfully submitted,

20 By: /s/ Raul Perez

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On December 12, 2022, this Court granted preliminary approval of the Joint Stipulation of Class
 4 Action and PAGA Settlement and Release¹ and approved distribution of the Notice of Class Action
 5 Settlement to all Class Members. Class Members were given 45 days to opt out or object to the
 6 Settlement (“Response Deadline”). Now that the Response Deadline has passed, Plaintiffs Omar Zine
 7 and William Baber are pleased to report that: (1) no Class Members opted out; (2) no Class Members
 8 have objected to the Settlement; (3) the **entire Net Settlement Fund will be disbursed to all**
 9 **Participating Class Members**; (4) the average payment to Participating Class Members from the Net
 10 Settlement Fund is \$837.67, and the highest is \$3,257.40. (Declaration of Irvin Garcia [“Garcia Decl.”]
 11 ¶¶ 6-9.)

12 Plaintiffs now move for final approval of the class action settlement. This motion is unopposed
 13 by Defendant Nespresso USA, Inc. (collectively with Plaintiffs, the “Parties”). The principal terms of the
 14 Settlement provide for the following:

- 15 (1) Conditional certification of a Settlement Class defined as: All persons employed in
 16 California by Defendant as non-exempt employees at any time during the period from
 17 June 3, 2016 through January 4, 2022 (“Class Members”).
- 18 (2) A **non-reversionary** Gross Settlement Amount of \$950,000. The Gross Settlement
 19 Amount includes:
- 20 (a) A Net Settlement Fund (the Gross Settlement Amount minus the requested
 21 Attorneys’ Fees and Costs, Settlement Administration Costs, the \$80,000
 22 PAGA settlement, and the Class Representative Enhancement Payments),
 23 which will be allocated to all Class Members on a pro-rata basis according to the
 24 number of weeks each Class Member worked during the Class Period. **The**
 25 **Entire Net Settlement Fund will be paid to all Class Members who did not**
 26 **opt out of the Settlement Class.**

27
 28 ¹ Hereinafter, the “Settlement” or “Settlement Agreement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement.

- 1 (b) Attorneys’ fees in the amount of one-third of the Gross Settlement Amount (or
2 \$316,667), and litigation costs and expenses of \$24,085.88, to Capstone Law
3 APC and Shegerian & Associates, Inc. (“Plaintiffs’ Counsel”).
- 4 (c) Settlement administration costs of \$10,000, to be paid to the jointly selected
5 Settlement Administrator, CPT Group, Inc. (“CPT”).
- 6 (d) A \$80,000 PAGA settlement, of which 75% (\$60,000) will be paid to the Labor
7 & Workforce Development Agency (“LWDA”), and the remaining 25%
8 (\$20,000) (“PAGA Fund”), will be payable to PAGA Members, defined as: All
9 persons employed in California by Defendant as non-exempt employees at any
10 time during the period from March 6, 2019 through January 4, 2022. **The**
11 **Entire PAGA Fund will be paid to all PAGA Members.**
- 12 (e) Class Representative Enhancement Payments of \$5,000, each, to Omar Zine and
13 William Baber for their service on behalf of the Settlement Class, and General
14 Release Payments of \$5,000, each, for general releases of all claims arising out
15 of their employment with Defendant.

16 An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement
17 Class’s behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s
18 length with helpful guidance from Jeffrey Krivis, Esq., an experienced and respected mediator of wage
19 and hour actions, and the Settlement confers substantial benefits to Class Members. This relief—
20 averaging \$837.67 per Class Member from the Net Settlement Fund—is particularly impressive when
21 viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover, by
22 settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for
23 relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at
24 trial, or of Plaintiffs prevailing at trial but losing on appeal.

25 Accordingly, given the Settlement’s favorable terms, the Court’s previous findings concerning
26 the Settlement’s fairness and reasonableness, and the complete absence of objection to the Settlement,
27 Plaintiffs respectfully request that the Court: (1) grant this Motion for Final Approval of the Settlement
28 Agreement; (2) grant final approval of the settlement administration costs/expenses; (3) enter judgment

1 pursuant to the Settlement Agreement; and (4) retain jurisdiction to enforce the Settlement.

2 **II. FACTS AND PROCEDURE**

3 **A. Brief Overview of the Litigation**

4 Nespresso is a Delaware corporation that produces and distributes some of the world's most
5 well-known food brands, including Nescafe, Gerber, and Carnation. Nespresso operates at least nine
6 retail locations in California in which it sells its coffee makers and related merchandise.

7 Plaintiff Zine worked for Nespresso in California as an hourly paid, non-exempt Specialist
8 Boutique Coffee from approximately December 2015 to February 2019. (*See* Dkt. No. 24, Second
9 Amended Complaint ["SAC"] ¶ 4.) His primary job duties included performing product demonstrations,
10 providing customer service, opening and closing the store, and stocking merchandise. (*Id.*)

11 Plaintiff Baber worked for Nespresso in California as an hourly-paid, non-exempt retail sales
12 specialist from approximately August 20, 2017 through approximately January 31, 2020. (Declaration of
13 Cheryl A. Kenner ["Kenner Decl."] ¶ 3.) His job duties included stocking merchandise; selling
14 merchandise; inventorying, organizing, packing and unpacking merchandise; cashiering; answering
15 phones; assisting customers; janitorial tasks for the store and restrooms; providing food and drinks to
16 customers; washing dishes; setting up deliveries of merchandise to customers; fulfilling orders to be
17 shipped to customers who placed orders online or else picked up in-store; and performing general
18 opening/closing duties.

19 On June 25, 2020, Plaintiff Zine filed his class action complaint against Nespresso in Contra
20 Costa County (Case No. C20-01185). (Declaration of Raul Perez ["Perez Decl."] ¶ 2.) On July 27, 2020,
21 Defendant removed this case to the Northern District of California. (*Id.*) Plaintiff Zine's operative SAC
22 alleges that Defendant failed to pay overtime, minimum wages, provide compliant meal periods and rest
23 periods, provide compliant wage statements, provide timely wages upon termination, failure to pay
24 vested vacation time and paid time off upon termination, and unreimbursed business expenses. (*Id.*)

25 On June 3, 2020, Plaintiff William Baber filed his own class action and PAGA Representative
26 action complaint alleging the same or substantially overlapping causes of action with a similar class
27 definition as the Zine case. (Kenner Decl. ¶ 4.) On September 15, 2020, Plaintiff Baber filed his First
28 Amended Complaint. (*Id.*) On January 7, 2021, Plaintiff Baber transferred his case from the Central

1 District of California to consolidate it with Plaintiff Zine’s action. (*Id.* at ¶ 5.)

2 **B. The Parties Settled at Mediation.**

3 On October 4, 2021, the Parties participated in a mediation with Jeffrey Krivis, Esq., an
4 experienced mediator of wage and hour class actions. (Perez Decl. ¶ 3.) Mr. Krivis helped to manage the
5 Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*Id.*)
6 With Mr. Krivis’s guidance, the Parties were eventually able to negotiate a complete settlement of
7 Plaintiffs’ claims. (*Id.*) The terms of the settlement are now set forth in complete and final form in the
8 Joint Stipulation of Class Action and PAGA Settlement and Release. (*Id.*) At all times, the Parties’
9 negotiations were adversarial and non-collusive. (*Id.*) The Settlement therefore constitutes a fair,
10 adequate, and reasonable compromise of the claims at issue. (*Id.*)

11 **C. Plaintiffs’ Counsel Conducted a Thorough Investigation of the Factual and Legal**
12 **Issues and Were Thus Able to Objectively Assess the Settlement’s Reasonableness.**

13 Plaintiffs’ Counsel’s evaluation of the settlement’s reasonableness was informed by their
14 thorough investigation into Plaintiffs’ claims and Defendant’s defenses, and their review of the
15 considerable discovery produced by Defendant during the matter’s pendency. (Perez Decl. ¶ 4; Kenner
16 Decl. ¶ 10.)

17 Prior to filing their respective actions, Plaintiffs contacted Plaintiffs’ Counsel to discuss the
18 factual bases for pursuing their actions against Defendant for Labor Code violations. (Perez Decl. ¶ 5;
19 Kenner Decl. ¶ 10.) Plaintiffs were intimately familiar with Defendant’s labor policies and practices, and
20 over the course of multiple interviews, knowledgeably summarized those policies and practices to
21 Plaintiffs’ Counsel. (Perez Decl. ¶ 5; Kenner Decl. ¶ 6.) During those conversations, they explained how
22 the policies and practices were instituted and provided valuable insight into how they gave rise to the
23 alleged Labor Code violations. (Perez Decl. ¶ 5; Kenner Decl. ¶ 6.) Based on these interviews with
24 Plaintiffs, Plaintiffs’ Counsel determined that there were legally sufficient grounds for pursuing an action
25 against Defendant. (Perez Decl. ¶ 5; Kenner Decl. ¶¶ 6–7,10.)

26 In preparation for drafting the Complaints, Plaintiffs’ Counsel conducted their own preliminary
27 investigation into the factual bases for Plaintiffs’ claims, which entailed, *inter alia*, a careful examination
28 of Plaintiffs’ personnel files and associated records. (Perez Decl. ¶ 6; Kenner Decl. ¶ 10.) Following the

1 filing of Plaintiffs' respective actions, and in response to their formal and informal discovery requests,
2 Plaintiffs' Counsel received a considerable amount of documents and data, including employee
3 demographic data, putative class members' contact information, a sample of time and pay records, and
4 Defendant's labor policies and procedures manuals which covered a broad range of topics including,
5 *inter alia*, employee clock-in policies and procedures, attendance policies, meal periods/rest periods,
6 overtime & premium pay, etc. (Perez Decl. ¶ 6; Kenner Decl. ¶ 11.) The document and data exchanges
7 allowed Plaintiffs' Counsel to fully assess the nature and magnitude of the claims being settled, as well
8 as the impediments to recovery, and ultimately enabled Plaintiffs' Counsel so as to make an independent
9 assessment of the reasonableness of the settlement's terms. (Perez Decl. ¶ 6; Kenner Decl. ¶ 12.)

10 Following the production of the Class Members' contact information, Plaintiffs' Counsel also
11 interviewed numerous Class Members to determine the extent and frequency of the alleged Labor Code
12 violations and to learn more about the day-to-day circumstances giving rise to the alleged violations.
13 (Perez Decl. ¶ 7; Kenner Decl. ¶ 13.) These Class Members worked in both stand-alone Nespresso
14 boutiques, and Bloomingdales locations during the entire class period from 2017 through 2021. (Perez
15 Decl. ¶ 7; Kenner Decl. ¶ 13.) Geographically, these Class Members worked in all relevant regions; i.e.,
16 Northern and Southern California. (Perez Decl. ¶ 7; Kenner Decl. ¶ 13.) The Class Members interviewed
17 held the following positions: greeter, sales associate, coffee specialist, barista, boutique specialist,
18 manager in-training, in-house trainer, team lead, shift lead, assistant manager, and chef. (Perez Decl. ¶ 7;
19 Kenner Decl. ¶ 13.)

20 In summary, Plaintiffs' Counsel performed a thorough investigation into the claims at issue,
21 which included: (1) determining Plaintiffs' suitability as private attorneys general and class
22 representatives through interviews, background investigations, and analyses of their employment files
23 and related records; (2) evaluating all of Plaintiffs' potential representative claims; (3) researching similar
24 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
25 employer; (4) analyzing a sample of employees' time and wage records; (5) reviewing Defendant's labor
26 policies and procedures manuals; (6) interviewing Class Members; (7) researching settlements in similar
27 cases; (8) evaluating Plaintiffs' claims and estimating Defendant's liability for purposes of settlement;
28 (9) drafting the mediation brief; and (10) participating in the mediation. (Perez Decl. ¶ 8; Kenner Decl. ¶

1 10.)

2 By engaging in such a thorough investigation and evaluation of Plaintiffs' claims, Plaintiffs'
3 Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
4 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
5 known facts and circumstances, including the risk of significant delay and uncertainty associated with
6 litigation, and various defenses asserted by Defendant. (Perez Decl. ¶ 9; Kenner Decl. ¶ 14.)

7 **D. The Proposed Settlement Fully Resolves Plaintiffs' Claims.**

8 **1. Composition of the Settlement Class**

9 The proposed Settlement Class consists of all persons employed in California by Defendant as
10 non-exempt employees at any time during the period from June 3, 2016 through January 4, 2022.
11 (Settlement Agreement ¶ 5.)

12 **2. Settlement Consideration**

13 Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for the
14 Gross Settlement Amount of \$950,000. The Gross Settlement Amount includes: (1) automatic payments
15 to all Participating Class Members—meaning, all Class Members except those who submit timely and
16 valid Requests for Exclusion—from the Net Settlement Fund; (2) \$316,667 in attorneys' fees (i.e., one-
17 third of the common fund) and \$24,085.88 in litigation costs to Plaintiffs' Counsel; (3) Settlement
18 Administration Costs of \$10,000; (4) a \$60,000 payment to the LWDA and a \$20,000 payment to
19 PAGA Members; and (5) Class Representative Enhancement Payments of \$5,000, each, for Plaintiffs'
20 service on behalf of the Settlement Class, and General Release Payments of \$5,000, each, for general
21 releases of all claims arising out of their employment with Defendant. (Settlement Agreement ¶¶ 34-39.)

22 Subject to the Court approving Attorneys' Fees and Costs, Settlement Administration Costs, the
23 payment to the LWDA, and the Class Representative Enhancement Payments, the Net Settlement Fund
24 will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 40.)

25 **3. Formula for Calculating Payments from the Net Settlement Fund**

26 Each Class Member's share of the Net Settlement Fund will be proportional to the number of
27 weeks he or she worked during the Class Period. (Settlement Agreement ¶ 42.)
28

1 **4. Formula for Calculating Payments from the PAGA Fund**

2 Each PAGA Member’s share of the PAGA Fund will be proportional to the number of weeks he
3 or she worked during the PAGA Period. (Settlement Agreement ¶ 42(b).)

4 **5. Releases by Class Members and PAGA Members**

5 In exchange for the Gross Settlement Amount, Plaintiffs and Participating Class Members will
6 agree to release the Released Class Claims during the Class Period:

7 All claims asserted in the Actions, reasonably arising from or related to the facts
8 and claims alleged in the Actions, or that reasonably could have been raised in the
9 Actions based on the facts and claims alleged in the operative civil complaints for
10 each Action and all amendments thereto, including all claims for unpaid wages,
11 minimum wage, overtime compensation, double-time compensation, and interest;
12 the calculation of the regular rate of pay for overtime or for any purpose; meal
13 period and rest-period premiums, including failure to pay premiums at the regular
14 rate of compensation; reimbursement for all necessary business expenses;
15 payment for all time spent in connection with security checks and all hours
16 worked, including off-the-clock and unrecorded work; failure to pay vacation and
17 paid time off upon termination; failure to provide accurate and timely wage
statements; unfair business practices; penalties, including, but not be limited to,
civil penalties, statutory penalties, recordkeeping penalties, and waiting-time
penalties; and attorneys’ fees and costs; all claims related to the Released Claims
arising under: the California Labor Code (including, but not limited to, sections
200, 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 227.3, 500, 510, 512, 516,
558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
2800, and 2802), the Wage Orders of the California Industrial Welfare
Commission; California Business and Professions Code section 17200, et seq.
This release excludes the release of claims not permitted by law.

18 (Settlement Agreement ¶¶ 26, 55.)

19 And in exchange for the PAGA Settlement Amount, Plaintiffs and PAGA Members will agree
20 to release the Released PAGA Claims during the PAGA Period:

21 All claims asserted through California Labor Code §§ 2698, et seq., that reasonably
22 arise out of, or are related to, the Released Class Claims during the PAGA Period.

23 (Settlement Agreement ¶¶ 27, 56.)

24 **E. The Notice and Settlement Administration Processes Were Completed Pursuant to**
25 **the Court’s Order.**

26 As authorized by the Court’s Order preliminarily approving the Settlement Agreement, the
27 Parties engaged CPT to provide settlement administration services. (Garcia Decl. ¶ 2.) CPT’s duties
28 have, and if the Court enters the final approval order, will include: (1) printing and mailing the Notice of

1 Class Action Settlement (“Notice”); (2) receiving and processing undeliverable Notices and locating
2 updated addresses for Class Members; (3) receiving and validating Requests for Exclusion; (4)
3 calculating and distributing the Class Settlement Amount; (5) tax reporting; (6) providing necessary
4 reports and declarations; and (7) performing such other tasks as set forth in the Settlement Agreement or
5 as the Parties mutually agree or that the Court orders. (*Id.*)

6 On December 12, 2022, CPT received the Class Notice prepared jointly by Plaintiffs’ Counsel
7 and counsel for Defendant and approved by the Court. (Garcia Decl. ¶ 3.) The Class Notice summarized
8 the Settlement’s principal terms, provided Class Members with an estimate of how much they would be
9 paid if the Settlement received final approval, and advised Class Members about how to opt out of the
10 Settlement and how to object. (*Id.*)

11 Separately, counsel for Defendant provided CPT with a mailing list (the “Class List”), which
12 included each Class Member’s full name, last known address, Social Security Numbers, and information
13 necessary to calculate payments. (Garcia Decl. ¶ 3.) The mailing addresses contained in the Class List
14 were processed and updated using the National Change of Address Database maintained by the U.S.
15 Postal Service. (*Id.* at ¶ 4.) On January 23, 2023, CPT mailed Class Notices to Class Members via First-
16 Class U.S. mail. (*Id.*) Class Members were given 45 days to opt out or object to the Settlement. Plaintiffs
17 can now report that no Class Members opted out, and no Class Members have objected to the
18 Settlement. (*Id.* at ¶¶ 6-7.)

19 **III. ARGUMENT**

20 **A. Class Certification Requirements Are Met.**

21 The Court certified the Class for settlement purposes upon Preliminary Approval, finding that
22 requirements under Rule 23(a) and Rule 23(b)(2) were satisfied. (*See* Dkt. No. 60.) Nothing has changed
23 that would affect the Court’s ruling on class certification. *See Chambers v. Whirlpool Corp.*, 214 F.
24 Supp. 3d 877 (C.D. Cal. 2016) (reconfirming the certification set forth in the preliminary approval order
25 “[b]ecause the circumstances have not changed” since that order); *In re Hyundai & Kia Fuel Econ.*
26 *Litig.*, 926 F.3d 539, 556 (9th Cir. 2019) (en banc) (courts must apply the criteria for class certification
27 “differently in litigation classes and settlement classes”). Therefore, the Court should grant final
28 certification of the Settlement Class.

1 **B. The Court Should Grant Final Approval of the Class Settlement.**

2 Upon final approval, the Court’s duty is to determine whether the proposed Settlement is
 3 “fundamentally fair, adequate, and reasonable.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir.
 4 1998). In evaluating the Settlement, the Court is guided by several important policies. First, federal
 5 courts favor settlements, particularly in class actions, where the costs, delays and risks of continued
 6 litigation might otherwise overwhelm any potential benefit the class could hope to obtain. *See Class*
 7 *Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting the “strong policy that favors
 8 settlements, particularly where complex class action litigation is concerned”). Second, for settlements
 9 reached through arms’-length negotiations, courts are to give:

10 [P]roper deference to the private consensual decision of the parties. . . . [T]he court’s
 11 intrusion upon what is otherwise a private consensual agreement negotiated between
 12 the parties to a lawsuit must be limited to the extent necessary to reach a reasoned
 13 judgment that the agreement is not the product of fraud or overreaching by, or collusion
 14 between, the negotiating parties, and that the settlement, taken as a whole, is fair,
 15 reasonable and adequate to all concerned.

14 *Hanlon*, 150 F.3d at 1027.

15 Guided by these policies, the district court then may consider some or all of the following factors
 16 in evaluating the reasonableness of a settlement: (1) the strength of the plaintiff’s case and the risk,
 17 expense, complexity, and likely duration of further litigation; (2) the risk of maintaining class action
 18 status throughout trial; (3) the amount offered in settlement; (4) the extent of discovery completed and
 19 the stage of proceedings; (5) the participation of a governmental participant; (6) the experience and views
 20 of counsel; and (7) the reaction of class members. *See Hanlon*, 150 F.3d at 1026 (“*Hanlon* factors”).

21 The amendments to Rule 23 direct the Court to consider a similar list of factors, including
 22 whether: (A) the class representatives and class counsel have adequately represented the class; (B) the
 23 proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into
 24 account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of
 25 distributing relief to the class, including the method of processing class-member claims; (iii) the terms of
 26 any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to
 27 be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each
 28 other. FED. R. CIV. P. 23(e)(2). The Advisory Committee’s notes clarify that this list of factors does not

1 “displace” the *Hanlon* factors, “but instead aim to focus the court and attorneys on ‘the core concerns of
2 procedure and substance that should guide the decision whether to approve the proposal.’” *In re Extreme*
3 *Networks, Inc. Sec. Litig.*, No. 15-04883, 2019 WL 3290770, at *6 (N.D. Cal. July 22, 2019) (quoting
4 FED. R. CIV. P. 23(e)(2) advisory committee’s note to 2018 amendment).

5 Additionally, for class action settlements prior to contested certification, the Ninth Circuit further
6 requires that the Court scrutinize the settlement even more closely, applying the so-called *Bluetooth*
7 factors.² See *Allen v. Bedolla*, 787 F.3d 1218, 1224 (9th Cir. 2015). As set forth below, the Settlement
8 satisfies all of these factors, meriting final approval.

9 **1. The Settlement Was Negotiated at Arm’s Length by Experienced Counsel.**

10 The Settlement is the result of the Parties’ protracted and adversarial settlement negotiations by
11 experienced class action attorneys. Plaintiffs are represented by Capstone Law APC and Shegerian &
12 Associates, Inc. Plaintiffs’ Counsel employ seasoned class action attorneys who regularly litigate wage
13 and hour claims through certification and on the merits, and have considerable experience settling wage
14 and hour class actions. (Perez Decl. ¶¶ 10-18, Ex. 1; Kenner Decl. ¶¶ 16–20, 22–24.) Defendant is
15 represented by Sheppard, Mullin, Richter & Hampton LLP, a respected defense firm.

16 **2. The Extent of Discovery Completed Supports Final Approval.**

17 As set forth in greater detail above, based on their analysis of documents and class data produced
18 by Defendant (including a sample of Class Members’ time and pay records, and Nespresso’s labor
19 policies and procedures manuals), Plaintiffs’ Counsel were able to realistically assess the value of
20 Plaintiffs’ claims and intelligently engage defense counsel in settlement discussions that culminated in
21 the proposed settlement now before the Court. (Perez Decl. ¶¶ 4-8; Kenner Decl. ¶ 12.)

22 By engaging in a thorough investigation and evaluation of Plaintiffs’ claims, Plaintiffs’ Counsel
23 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
24 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
25 known facts and circumstances, including the risk of significant delay and uncertainty associated with
26 litigation, various defenses asserted by Defendant. (Perez Decl. ¶ 9; Kenner Decl. ¶ 12.)

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² *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 938 (9th Cir. 2011).

1 **3. The Settlement Is Within the Range of Reasonableness Considering the**
 2 **Strength of Plaintiff’s Case and the Risk, Expense, Complexity, and**
 3 **Duration of Further Litigation.**

4 As discussed in detail below, an objective evaluation of the Settlement confirms that the relief
 5 negotiated on the Class’s behalf—a \$950,000 non-reversionary total Gross Settlement Amount—is fair,
 6 reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s-length before an
 7 experienced mediator, and the settlement confers substantial benefits to Class Members. The relief
 8 offered by the Settlement is particularly impressive when viewed against the difficulties encountered by
 9 plaintiffs pursuing wage and hour cases.

10 In determining whether a settlement agreement is fair, adequate, and reasonable to all concerned,
 11 the Court may consider the strength of the plaintiff’s case and the amount offered in settlement, among
 12 other factors. *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998). Ultimately, “the
 13 district court’s determination is nothing more than an amalgam of delicate balancing, gross
 14 approximations, and rough justice,” and there is no single “formula” to be applied; rather, the Court may
 15 presume that the parties’ counsel and the mediator arrived at a reasonable range of settlement by
 16 considering Plaintiffs’ likelihood of recovery. *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615,
 17 625 (9th Cir. 1982); *Rodriguez v. West Pub. Corp.*, 563 F.3d 948, 965 (9th Cir. 2009).

18 Federal district courts recognize that there is an inherent “range of reasonableness” in
 19 determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any
 20 particular case and the concomitant risks and costs necessarily inherent in taking any litigation to
 21 completion.” *Newman v. Stein*, 464 F. 2d 689, 693 (2d Cir. 1972); *see also Nat’l Rural Telecomm. Coop.*
 22 *v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (“well settled law that a proposed settlement may
 23 be acceptable even though it amounts to only a fraction of the potential recovery”).³

Defendant’s Exposure for the Class Claims	
Off-the-Clock Claim	\$550,000.00

24
 25
 26 ³ *See also In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 460 (S.D.N.Y. 2004)
 27 (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant,
 28 consideration when assessing settlement’s fairness”); *In re IKON Office Solutions, Inc. Sec. Litig.*, 194
 F.R.D. 166, 184 (E.D. Pa. 2000) (“the fact that a proposed settlement constitutes a relatively small
 percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the
 percentage should be considered in light of strength of the claims”).

Defendant's Exposure for the Class Claims	
Meal Period Claim	\$336,000.00
Rest Period Claim	\$3,170,000.00
Regular Rate Claim	\$50,000.00
Business Expense Claim	\$225,000.00
Wage Statement Claim	\$1,112,000.00
Final Pay Claim	\$1,161,800.00
Total	\$6,604,800.00

These estimates assume that each and every one of Plaintiffs' claims would have been certified for class-wide resolution, that Plaintiffs would have prevailed at trial, and that the jury's verdict would have been affirmed on appeal. Understandably, for purposes of evaluating the settlement's reasonable, this estimate must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiffs' Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendants' maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiffs' claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiffs' claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiffs' Counsel determined that it would be reasonable to settle for a fraction of Defendants' maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 15 percent. Such a discount is inherently reasonable given that Plaintiffs would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of the above contingencies is generous to the class's position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these dispositive stages.

Courts routinely approve settlements that provide a similar discounted range of the maximum

1 potential recovery. *See, e.g., In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del.
 2 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated
 3 damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements
 4 with a value of 1% to 8% of the estimated total damages were approved); *In re Four Seasons Secs. Laws*
 5 *Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages); *Balderas v. Massage Envy*
 6 *Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which
 7 amounted to 8% of maximum recovery “[fell] within the range of possible initial approval based on the
 8 strength of plaintiff’s case and the risk and expense of continued litigation.”); *In re Omnivision Techs.,*
 9 *Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated
 10 damages).⁴

11 4. The Settlement Class Has Responded Positively to the Settlement.

12 In evaluating the fairness of a Settlement, the “absence of a large number of objections to a
 13 proposed class action settlement raises a strong presumption that the terms of a proposed class settlement
 14 action are favorable to the class members.” *National Rural Tele. Coop. v. DIRECTV, Inc.*, 221 F.R.D.
 15 523, 529 (C.D. Cal. 2004). Here, no Class Members have opted out or objected to the Settlement.
 16 (Garcia Decl. ¶¶ 6-7.) The Class’s response is “overwhelmingly positive,” supporting approval of the
 17 Settlement. *See 7-Eleven Owners for Fair Franchising*, 85 Cal. App. 4th at 1152-53 (finding support for
 18 the settlement where 80 out of 5,454 class members elected to opt out and nine class members objected);
 19 *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010) (finding 0 objections and
 20

21 ⁴ *See also In re Uber FCRA Litig.*, No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at
 22 *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross
 23 settlement fund, prior to deducting attorneys’ fees and services awards, was valued at 7.5% or less of
 24 total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS
 25 140759, at *21 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement
 26 representing “8.1% of the full verdict value” with net settlement amount representing approximately
 27 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL
 28 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to
 Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-
 DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross
 settlement amount represented 8.6% of the maximum potential recovery from the class claims and
 estimated amount distributable to class after accounting for attorneys’ fees and other deductions
 represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-
 cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where
 “[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee
 and costs—even before any reduction thereof for attorney’s fees and costs.”).

1 16 opt-outs out of 329 class members [4.86%] “strongly support[] settlement”); *Garner v. State Farm*
 2 *Mut. Auto. Ins. Co.*, No. CV 08 1365 CW EMC, 2010 WL 1687832, at *15 (N.D. Cal. Apr. 22, 2010)
 3 (finding an opt-out rate of 0.4% supported settlement). In other words, “[t]he fact that the overwhelming
 4 majority of the class willingly approved the offer and stayed in the class presents at least some objective
 5 positive commentary as to its fairness.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998).

6 The average settlement payment from the Net Settlement Fund is \$837.67 and the highest is
 7 \$3,257.40. (Garcia Decl. ¶ 9.) This average net recovery is significantly greater than many other wage
 8 and hour class action settlements approved by California state and federal courts. *See, e.g., Sandoval v.*
 9 *Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County Super. Ct.) (average net recovery
 10 of approximately \$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct.) (average
 11 net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A.
 12 County Super. Ct.) (average net recovery of approximately \$120); *Ressler v. Federated Department*
 13 *Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of approximately \$90);
 14 *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal.) (average net recovery of
 15 approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal.)
 16 (average net recovery of approximately \$60); *Lim v. Victoria’s Secret Stores, Inc.*, Case No. 04CC00213
 17 (Orange County Super. Ct.) (average net recovery of approximately \$35); *Gomez v. Amadeus Salon,*
 18 *Inc.*, Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately \$20); *Jones v. Bath*
 19 *& Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW (C.D. Cal.) (average net recovery of approximately
 20 \$50); and *Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct.)
 21 (average net recovery of approximately \$80).

22 **C. The Court Should Approve the PAGA Settlement.**

23 Pursuant to the Settlement Agreement, \$80,000 from the Gross Settlement Amount shall be
 24 allocated to the resolution of the PAGA claim, of which 75% (\$60,000) will be paid directly to the
 25 LWDA, and the remaining 25% (\$20,000) will be paid to Participating Class Members. (Settlement
 26 Agreement ¶ 39.)

27 This result was reached after good-faith negotiation between the parties. The amount was valued
 28 as follows: Based on information and evidence produced by Defendant during discovery, Plaintiffs

1 determined that aggrieved employees worked a combined total of approximately 20,000 pay periods
 2 during the PAGA statute of limitations period (“PAGA Period”). Unless otherwise provided by the
 3 Labor Code,⁵ PAGA civil penalties for Labor Code violations are calculated according to Labor Code
 4 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil
 5 penalty is \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
 6 aggrieved employee per pay period for each subsequent violation (the “subsequent violation penalty”).

7 However, a number of courts have found that the “subsequent” penalty under PAGA applies
 8 only after a court or the Labor Commissioner determines that the employer has violated the Labor Code.
 9 *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) (“the increased \$200 civil penalty
 10 for ‘subsequent violation[s]’ does not apply unless [Plaintiff] presents evidence that the Labor
 11 Commission or a court notified [Defendant] that it was in violation of the Labor Code.”); *Bernstein v.*
 12 *Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to “heightened civil
 13 penalties” because the defendant was not given notice by the Labor Commissioner when the
 14 “subsequent” violations occurred).⁶ Under this line of cases, Defendant’s exposure would be
 15 approximately \$2 million = 20,000 violative pay periods × \$100.

16 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
 17

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 19 ⁵ For example, Labor Code section 558 authorizes the Labor Commissioner to seek civil
 20 penalties for overtime and other workday violations at an initial violation rate of \$50 for each underpaid
 21 employee for each pay period and a subsequent violation rate of \$100 for each underpaid employee for
 22 each pay period. *See* Lab. Code § 558; *see also* *ZB, N.A. v. Super. Ct.*, 8 Cal. 5th 175, 197 (2019)
 (calculating PAGA penalties for overtime violations according to the Section 558 penalty rates); *Lawson*
v. ZB, N.A., 18 Cal. App. 5th 705, 724 (2017), as modified (Dec. 21, 2017), *aff’d* but criticized sub nom.
ZB, N.A. v. Super. Ct., 8 Cal. 5th 175 (2019) (“we note that with respect to the meal break and rest break
 violations . . . section 558 provides either a \$50 or \$100 assessment for each violation during a pay
 period”).

23 ⁶ *See also* *Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSCKX, 2019 WL 2436998, at *5
 24 (C.D. Cal. June 10, 2019) (“employers are not subject to heightened penalties . . . until a court or
 25 commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered
 26 evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA’s
 27 heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in
 28 controversy”); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014
 WL 4961182 (C.D. Cal., October 2, 2014) (“Under the Labor Code, if an employer does not have notice
 that they are committing a violation, they are not subject to the heightened penalties.”); *Trang v. Turbine*
Engine Components Technologies Corp., No. CV 12–07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal.
 Dec. 19, 2012) (“courts have held that employers are not subject to heightened penalties for subsequent
 violations unless and until a court or commissioner notifies the employer that it is in violation of the
 Labor Code”), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

1 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
2 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
3 reducing PAGA penalties, courts have considered issues including whether the employees suffered
4 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
5 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
6 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
7 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
8 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

9 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
10 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—
11 **or 0.21% of the maximum**—and stated that this reduction was warranted because imposing the
12 maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith
13 attempts” to comply with meal period obligations and because the court found the violations were
14 minimal. *Carrington*, 30 Cal. App. 5th at 517. The Court of Appeal affirmed the lower court’s reduced
15 award of a \$150,000 penalty under PAGA. *Id.* at 529.

16 Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding
17 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also*
18 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction
19 under specified PAGA claim where the employer produced evidence that it took its obligations
20 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May
21 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,
22 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*
23 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15,
24 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with
25 recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis*
26 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013)
27 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous
28 other PAGA claims).

1 Plaintiffs therefore determined an appropriate range of settlement for PAGA penalties as a
 2 percentage of the settlement range that was consistent with other hybrid class/PAGA settlements
 3 approved by California courts.⁷ Where PAGA penalties are negotiated in good faith and “there is no
 4 indication that [the] amount was the result of self-interest at the expense of other Class Members,” such
 5 amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, Case No. 08-00844, 2009
 6 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal.
 7 App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which
 8 does not allocate any damages to the PAGA claims.”).

9 **D. The Requested Payment to the Settlement Administrator Is Reasonable and**
 10 **Should Receive Final Approval.**

11 Plaintiffs request final approval of settlement administration costs in the amount of \$10,000.
 12 (Garcia Decl. ¶ 10.) CPT has promptly and properly distributed the Class Notice to all Class Members
 13 and completed its duties in accordance with the settlement terms and the Court’s preliminary approval
 14 Order. (*See generally* Garcia Decl.) Accordingly, the \$10,000 payment is fair and reasonable and should
 15 be accorded final approval along with the rest of the Settlement terms.

16 **IV. CONCLUSION**

17 The Parties have negotiated a fair Settlement of the wage and hour claims that likely would not
 18

19 ⁷ *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal.
 20 June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties
 21 with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012
 22 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000
 23 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP,
 24 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000
 25 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC
 26 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement
 27 fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties);
 28 *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane
 Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated
 to the settlement of PAGA penalties); *Thompson v. Smart & Final, Inc.*, No. BC497198 (L.A. County
 Super. Ct. Nov. 18, 2014; Judge William F. Highberger) (gross settlement fund of \$3,095,000, of which
 approximately \$13,333 (or 0.4%) was allocated to the settlement of PAGA penalties); *Chavez v. Vallarta
 Food Enterprises, Inc.*, No. BC490630 (L.A. County Super. Ct. Nov. 10, 2014; Judge William F.
 Highberger) (gross settlement fund of \$1,545,900, of which \$10,000 (or 0.6%) was allocated to the
 settlement of PAGA penalties); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County
 Super. Ct. Oct. 3, 2013; Judge Kenneth R. Freeman) (gross settlement fund of \$1,535,000, of which
 \$1,000 (or 0.1%) was allocated to the settlement of PAGA penalties).

1 have been brought, let alone successfully resolved, but for the effort and resolve of the Plaintiffs and their
2 counsel. The Class Members' positive response indicates that the Settlement is fair and reasonable.
3 Accordingly, Plaintiffs respectfully request that this Court grant final approval of the Settlement
4 Agreement and enter judgment.

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Respectfully submitted,

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11 Los Angeles, California 90049
Telephone: (310) 860-0770
12 Facsimile: (310) 860-0771

13 *Attorneys for Plaintiff William Baber*

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OMAR ZINE, individually, and on behalf of
17 other members of the general public similarly
situated,

18 Plaintiff,

19 vs.

20 NESPRESSO USA, INC., a Delaware
corporation; and DOES 1 through 10, inclusive,

21 Defendants.

22 WILLIAM BABER, an individual, on behalf of
23 himself and all others similarly situated and
aggrieved,

24 Plaintiff,

25 vs.

26 NESPRESSO USA, INC., a Delaware
corporation; NESTLE USA, INC., a Delaware
corporation; and DOES 1 through 100, inclusive,

27 Defendants.
28

Case No.: 3:20-cv-05144-SK
Consolidated with 3:21-cv-00487-JSC

Assigned to the Hon. Sallie Kim

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: May 8, 2023
Time: 9:30 a.m.
Place: Courtroom C

1 **DECLARATION OF RAUL PEREZ**

2 I, Raul Perez, hereby declare as follows:

3 1. I am an attorney licensed to practice before all courts of the State of California and the
4 United States District Court, Northern District of California. I am a Partner at Capstone Law APC
5 (“Capstone” or with Shegerian & Associates, Inc., “Plaintiffs’ Counsel”), counsel for Plaintiff Omar
6 Zine (“Zine” or with William Baber, “Plaintiffs”) in the above-captioned action. Unless indicated
7 otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would
8 testify competently to them. I make this declaration in support of the Motion for Final Approval of the
9 Class Action and PAGA Settlement.

10 **BRIEF OVERVIEW OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

11 2. On June 25, 2020, Plaintiff Zine filed his class action complaint against Defendant
12 Nespresso USA, Inc. (“Defendant” or “Nespresso”) (collectively with Plaintiffs, the “Parties”) in Contra
13 Costa County (Case No. C20-01185). On July 27, 2020, Defendant removed this case to the Northern
14 District of California. Zine’s operative Second Amended Complaint alleges that Defendant failed to pay
15 overtime, minimum wages, provide compliant meal periods and rest periods, provide compliant wage
16 statements, provide timely wages upon termination, failure to pay vested vacation time and paid time off
17 upon termination, and unreimbursed business expenses.

18 3. On October 4, 2021, the Parties participated in a mediation with Jeffrey Krivis, Esq., an
19 experienced mediator of wage and hour class actions. Mr. Krivis helped to manage the Parties’
20 expectations and provided a useful, neutral analysis of the issues and risks to both sides. With Mr.
21 Krivis’s guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiffs’
22 claims. The terms of the settlement are now set forth in complete and final form in the Joint Stipulation
23 of Class Action and PAGA Settlement and Release (“Settlement Agreement” or “Settlement”). At all
24 times, the Parties’ negotiations were adversarial and non-collusive. The Settlement therefore constitutes a
25 fair, adequate, and reasonable compromise of the claims at issue.

26 4. Plaintiffs’ Counsel’s evaluation of the Settlement’s reasonableness was informed by
27 their thorough investigation into Plaintiffs’ claims and Defendant’s defenses, and their review of the
28 considerable discovery produced by Defendant during the matter’s pendency.

1 5. Prior to filing his action, Zine contacted Capstone's attorneys to discuss the factual bases
2 for pursuing an action against Defendant for Labor Code violations. Zine was intimately familiar with
3 Defendant's labor policies and practices, and over the course of multiple interviews, knowledgeably
4 summarized those policies and practices to Capstone's attorneys. During those conversations, he
5 explained how the policies and practices were instituted, and provided valuable insight into how they
6 gave rise to the alleged Labor Code violations. Based on these interviews, Capstone's attorneys
7 determined that there were legally sufficient grounds for pursuing an action against Defendant.

8 6. In preparation for drafting Zine's Complaint, Capstone's attorneys conducted a
9 preliminary investigation into the factual bases for Zine's claims, which entailed, *inter alia*, a careful
10 examination of his personnel files and associated records. Following the filing of Zine's Complaint, and
11 in response to formal and informal discovery requests, Plaintiffs' Counsel received a considerable
12 amount of documents and data, including employee demographic data, putative class members' contact
13 information, a sample of time and pay records, and Defendant's labor policies and procedures manuals
14 which covered a broad range of topics including, *inter alia*, employee clock-in policies and procedures,
15 attendance policies, meal periods/rest periods, overtime & premium pay, etc. The document and data
16 exchanges allowed Plaintiffs' Counsel to fully assess the nature and magnitude of the claims being
17 settled, as well as the impediments to recovery, and ultimately enabled Plaintiffs' Counsel so as to make
18 an independent assessment of the reasonableness of the settlement's terms.

19 7. Following the production of the Class Members' contact information, Plaintiffs'
20 Counsel also interviewed numerous Class Members to determine the extent and frequency of the alleged
21 Labor Code violations and to learn more about the day-to-day circumstances giving rise to the alleged
22 violations. These Class Members worked in both stand-alone Nespresso boutiques, and Bloomingdales
23 locations during the entire class period from 2017 through 2021. Geographically, these Class Members
24 worked in all relevant regions; i.e., Northern and Southern California. The Class Members interviewed
25 held the following positions: greeter, sales associate, coffee specialist, barista, boutique specialist,
26 manager in-training, in-house trainer, team lead, shift lead, assistant manager, and chef.

27 8. In summary, Plaintiffs' Counsel performed a thorough investigation into the claims at
28 issue, which included: (1) determining Plaintiffs' suitability as private attorneys general and class

1 representatives through interviews, background investigations, and analyses of their employment files
 2 and related records; (2) evaluating all of Plaintiffs' potential representative claims; (3) researching similar
 3 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
 4 employer; (4) analyzing a sample of employees' time and wage records; (5) reviewing Defendant's labor
 5 policies and procedures manuals; (6) interviewing Class Members; (7) researching settlements in similar
 6 cases; (8) evaluating Plaintiffs' claims and estimating Defendant's liability for purposes of settlement;
 7 (9) drafting the mediation brief; and (10) participating in the mediation.

8 9. By engaging in such a thorough investigation and evaluation of Plaintiffs' claims,
 9 Plaintiffs' Counsel can opine that the Settlement, for the consideration and on the terms set forth in the
 10 Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in
 11 light of all known facts and circumstances, including the risk of significant delay and uncertainty
 12 associated with litigation, and various defenses asserted by Defendant.

13 CAPSTONE LAW APC FIRM PROFILE

14 10. Since its founding in 2012, Capstone has emerged as a major force in aggregate
 15 litigation, making law on cutting-edge issues.

16 11. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer*
 17 Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case
 18 *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of
 19 California workers to bring representative actions under the Labor Code Private Attorneys General Act
 20 ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.

21 12. Recognized as a leading firm in the prosecution of PAGA enforcement actions,
 22 Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior*
 23 *Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision
 24 before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v.*
 25 *Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully
 26 argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

27 13. Capstone has made important contributions to consumer protection law. In *McGill v.*
 28 *Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the

1 right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and
2 that consumers need not satisfy class certification requirements to enjoin unfair business practices on
3 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed
4 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages
5 models in consumer class actions.

6 14. Capstone served as class counsel in a number of significant wage and hour settlements,
7 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case
8 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*
9 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of
10 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*
11 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an
12 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

13 15. Capstone has an established practice in automotive defect class actions and is currently
14 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.
15 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*
16 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

17 16. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s
18 settlements have directly compensated hundreds of thousands of California workers and consumers.
19 Capstone’s actions have also forced employers to modify their policies for the benefit of employees,
20 including changing the compensation structure for commissioned employees and changing practices to
21 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA
22 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of
23 California.

24 17. The following is a representative sample of Capstone’s settlements:

- 25 a. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-
26 PLA (N.D. Cal.): gross settlement of \$12 million on behalf of
27 approximately 150,000 personal bankers, tellers, sales associates, and
28 assistant branch manager trainees for wage and hour violations;

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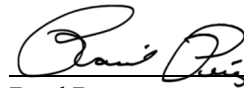
- b. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- c. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- d. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- e. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- f. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- g. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- h. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- i. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- j. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt employees;
- k. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;

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- l. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- m. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- n. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

18. Attached as Exhibit 1 is a true and correct copy of Capstone’s firm resume.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 4th day of April, 2023, at Los Angeles, California.



Raul Perez

Exhibit 1



FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. With over twenty-five seasoned attorneys, many formerly with prominent class action or defense firms, Capstone has the experience, resources, and expertise to successfully prosecute complex employment and consumer actions.

Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over a hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).



SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
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- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.



PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.



Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims



such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored *Defective Prosthetic Devices: Strict Tort Liability for the Hospital?* 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.



Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of



employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Mark A. Ozzello. Mark A. Ozzello is a senior counsel with Capstone Law. He is a nationally recognized and respected consumer and employment attorney who has litigated those issues throughout the country. He has always been at the forefront of consumer rights, sitting on the Board of Governors for the Consumer Attorneys of California and regularly appearing as a featured speaker on consumer rights issues nationwide.

Mr. Ozzello is a former partner of Arias Ozzello & Gignac and, most recently, was Of Counsel to Markun Zusman Friere & Compton, LLP. In his capacity as a litigator, he has obtained results for his clients in excess of \$200 million dollars. Mark has also achieved consistent success in the California Courts of Appeal,



and several judicial opinions regularly cite to his matters as authority for class certification issues. He has also argued appellate issues in several Circuit Courts of Appeals with great success. Mr. Ozzello attended Pepperdine University School of Law where he was an Editor to the Law Review, publishing several articles during his tenure in that capacity. He received his undergraduate degree from Georgetown University.

Mr. Ozzello has always strived to be an integral part of local communities. He has established educational scholarship programs at several charitable organizations, including El Centro De Amistad in Los Angeles and St. Bonaventure Indian Mission and School in Thoreau, New Mexico, and presides over a legal clinic in Los Angeles which provides pro bono legal assistance to non-English speaking individuals.

Cody Padgett. A senior counsel at Capstone Law, Cody Padgett's practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. He handles consumer cases at all stages of litigation, and has contributed to major settlements of automobile defect actions valued in the tens of millions. Prior to joining Capstone Law, Mr. Padgett was a certified legal intern with the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.



John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm’s amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaepour. Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour’s experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor’s degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in



2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Joseph Hakakian. Joseph Hakakian is an associate with Capstone Law. His practice focuses on prosecuting wage-and-hour class and representative actions in state and federal court. Prior to joining Capstone Law, Mr. Hakakian served as a summer clerk for Mark Ozzello at Markun Zusman Freniere & Compton, LLP, working on various actions including wage-and-hour claims, unpaid overtime, false advertising, and unfair competition. He graduated from UCLA School of Law, with a business law specialization, where he served as a staff editor for the Journal of Environmental Law and Policy and worked as a law clerk with the Consumer Protection Division of the Los Angeles District Attorney’s Office. Prior to attending law school, Mr. Hakakian received his undergraduate degree from University of California, Los Angeles, in 2013, where he graduated summa cum laude, Dean’s Honor List, and College Honors, and received scholastic achievement awards from Golden Key Honor Society and Phi Alpha Theta Honor Society. Joseph is an active member of



the Consumer Attorneys Association of Los Angeles (CAALA), Consumer Attorneys of California (CAOC), and Beverly Hills, Los Angeles County, and Santa Monica Bar Associations.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Jezette Ron. Jezette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal



(www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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7 *Attorneys for Plaintiff William Baber*

8 *[Additional counsel on next page]*

9 **UNITED STATES DISTRICT COURT**

10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 OMAR ZINE, individually, and on behalf
13 of other members of the general public
similarly situated,

14 **Plaintiff,**

15 vs.

16 NESPRESSO USA, INC., a Delaware
17 corporation; and DOES 1 through 10,
inclusive,

18 **Defendants.**

19
20 WILLIAM BABER, an individual, on
21 behalf of himself and all others similarly
situated and aggrieved,

22 **Plaintiff,**

23 vs.

24 NESPRESSO USA, INC., a Delaware
25 corporation; NESTLE USA, INC., a
Delaware corporation; and DOES 1
through 100, inclusive,

26 **Defendants.**
27
28

Case No.: 3:20-cv-05144-SK
Consolidated with 3:21-cv-00487-JSC

**DECLARATION OF CHERYL A.
KENNER IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: May 8, 2023
Time: 9:30 a.m.
Place: Courtroom C

*[Filed concurrently with (1) Notice of
Motion and Unopposed Motion for
Final Approval; (2) Declaration of Raul
Perez (3) Declaration of Irvin Garcia;
(4) [Proposed] Order; and (5)
[Proposed] Judgment]*

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DECLARATION OF CHERYL A. KENNER

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I, Cheryl A. Kenner, declare:

1. I am an associate of the law firm Shegerian & Associates, Inc. (“S&A”), attorneys of record for Plaintiff William Baber (“Baber”) in this Action. I am admitted to practice before all courts of the State of California. Raul Perez, Mark A. Ozzello, and Joseph Hakakian of Capstone Law APC are counsel of record for plaintiff Omar Zine (“Zine”) (Zine and Baber are referred to collectively as “Plaintiffs”). I have personal knowledge of the facts thereto. I make this declaration upon my personal knowledge and, if called upon and sworn as a witness, I could and would competently testify hereto.

2. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement served and filed herewith. I have been involved in all aspects of this Action since at least February 2020, prior to the inception of the case, and have personal knowledge of the following facts.

THE PARTIES AND PROCEDURAL HISTORY

3. Plaintiff Baber worked for Nespresso in California as an hourly-paid, non-exempt retail sales specialist from approximately August 20, 2017 through approximately January 31, 2020.

4. On June 3, 2020, Plaintiff William Baber filed a class action and PAGA Representative action complaint alleging that Defendant failed to pay overtime, minimum wages, provide compliant meal periods and rest periods, provide compliant wage statements, provide timely wages upon termination, which are substantially overlapping causes of action with the similar class definition as the *Zine* case. On September 15, 2020, Plaintiff Baber filed his First Amended Complaint.

5. On January 7, 2021, Plaintiff Baber transferred his case from the Central District of California to consolidate it with Plaintiff Zine’s action.

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ADEQUACY OF THE CLASS REPRESENTATIVES

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2 6. Over the course of multiple interviews with Plaintiff Baber, Plaintiff
3 Baber demonstrated that he was intimately familiar with Defendant’s labor policies
4 and practices and was able to knowledgeably summarize those policies and practices
5 in speaking with me.

6 7. The Class Representatives’ claims are typical of the claims of the Class.
7 As with all Class Members, the Class Representatives worked for Defendant
8 Nespresso (“Defendant”) as employees during the Class Period and suffered injury for
9 Defendant’s alleged failure to provide them with meal periods and rest breaks, failure
10 to pay them minimum and overtime wages, failure to issue them timely and accurate
11 wage statements, failure to pay them all wages owed every pay period and upon
12 separation, and for Defendant’s alleged unlawful, unfair, and deceptive business
13 practices. Thus, the Class Representatives are members of the Class they seek to
14 represent, and their claims are typical of the Class.

15 8. The Class Representative Enhancement Payments are intended to
16 compensate Plaintiffs Omar Zine and William Baber as the Class Representatives for
17 their willingness to accept the responsibilities of representing the interests of all class
18 members in addition to providing a broader release of claims than absent Class
19 Members. The purpose is to provide incentive payments, taking into consideration the
20 risks, time and effort they expended in coming forward to provide invaluable
21 information and litigate this matter on behalf of all Class Members throughout the
22 duration of the Action.

INVESTIGATION, DISCOVERY, AND LITIGATION EFFORTS

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24 9. All negotiations were completed in a manner free of fraud, collusion, and
25 over-reaching; in fact, there is no evidence to suggest that the negotiations were
26 tainted in any way. Defendant is represented by a respected law firm also with
27 extensive experience in wage and hour class and PAGA actions. As is proper practice
28 for class action attorneys, Plaintiffs’ Counsel did not discuss attorneys’ fees until after

1 an agreement was reached in principle with respect to the direct class settlement
2 benefits and the gross settlement fund amount. Plaintiffs' Counsel acted consistently
3 with their ethical obligations by negotiating attorneys' fees only after the Parties
4 settled all other material terms affecting the Class. By deferring fee negotiations until
5 the material terms of the relief for the Class were mutually agreed upon, Plaintiffs'
6 Counsels' interests were aligned with that of the Class throughout the litigation.

7 10. Thus far, Plaintiffs' Counsel have devoted substantial time and resources
8 in connection with the investigation, litigation, discovery, negotiations, and settlement
9 of this matter over the course of nearly three years, all with no guarantee of
10 compensation for their services or the reimbursement of costs expended in light of the
11 fact that Plaintiffs' Counsel entered into a fee agreement with Plaintiffs on a
12 contingency basis. Class Members' individual claims would have been far too small
13 to cost-effectively litigate. Still, Plaintiffs' Counsel expended substantial resources
14 throughout the prosecution of this case and expect to do so to continue efforts to
15 effectuate the settlement. The massive amount of legal work undertaken by Plaintiffs'
16 Counsel has included, among other things: (1) preliminary research, factual
17 investigation—including reviewing Plaintiff's personnel file and records—and
18 multiple meetings and conversations with the Class Representatives; (2) drafting the
19 extensive PAGA letter to ensure it supplied the legally sufficient facts and theories to
20 withstand a challenge to its adequacy, the initial Complaint, and the operative First
21 Amended Complaint, which involved multiple meet-and-confer discussions on
22 Defendant's Motion to Dismiss; (3) drafting formal and informal discovery requests
23 and obtaining informal discovery requests; (4) reviewing and analyzing documents
24 and data Defendant produced; (5) conducting legal research; (6) contacting putative
25 class members and discussing the case and claims with them; (7) speaking to putative
26 Class members in preparation for the mediation; (8) analyzing classwide data and
27 statistics; (9) drafting a mediation brief, preparing for the mediation, and attending the
28 mediation; (10) engaging in extensive settlement negotiations and drafting the

1 Memorandum of Understanding, the Settlement Agreement, and the Notice Packet;
2 (11) drafting various stipulations to transfer and consolidate the two cases; (12)
3 appearing for various court appearances; (13) drafting and preparing for the motion
4 for preliminary approval, including supporting documents and declarations; (14)
5 vetting and selecting and then working with the Settlement Administrator on various
6 issues; (15) assisting the Class Representatives in understanding the proposed
7 Settlement; and (16) addressing various other case management matters. The
8 requirements of litigating this action have been significant such that it precluded
9 Plaintiffs' Counsel from pursuing other cases of similar complexity, and because
10 Plaintiffs' Counsel are a boutique law firm with few attorneys and staff.

11 11. In response to Plaintiffs' formal and informal discovery requests,
12 Plaintiffs' Counsel received a considerable amount of documents and data, including
13 employee demographic data, putative class members' contact information, a sample
14 of time and pay records, and Defendant's labor policies and procedures manuals
15 which covered a broad range of topics including, inter alia, employee clock-in
16 policies and procedures, attendance policies, meal periods/rest periods, overtime &
17 premium pay, etc.

18 12. The document and data exchanges allowed Plaintiffs' Counsel to fully
19 assess the nature and magnitude of the claims being settled, as well as the
20 impediments to recovery, and ultimately enabled Plaintiffs' Counsel so as to make an
21 independent assessment of the reasonableness of the settlement's terms. Plaintiffs'
22 Counsel were able to realistically assess the value of Plaintiffs' claims and
23 intelligently engage defense counsel in settlement discussions that culminated in the
24 proposed settlement.

25 13. Following the production of the Class Members' contact information,
26 Plaintiffs' Counsel also interviewed numerous Class Members to determine the extent
27 and frequency of the alleged Labor Code violations and to learn more about the day-
28 to-day circumstances giving rise to the alleged violations. These Class Members

1 worked in both stand-alone Nespresso boutiques, and Bloomingdales locations during
2 the entire class period from 2017 through 2021. Geographically, these Class Members
3 worked in all relevant regions; i.e., Northern and Southern California. The Class
4 Members interviewed held the following positions: greeter, sales associate, coffee
5 specialist, barista, boutique specialist, manager in-training, in-house trainer, team
6 lead, shift lead, assistant manager, and chef.

7 14. By engaging in such a thorough investigation and evaluation of
8 Plaintiffs' claims, Plaintiffs' Counsel can opine that the Settlement, for the
9 consideration and on the terms set forth in the Settlement Agreement, is fair,
10 reasonable, and adequate, and is in the best interests of Class Members in light of all
11 known facts and circumstances, including the risk of significant delay and uncertainty
12 associated with litigation, and various defenses asserted by Defendant.

13 15. I will certainly expend further hours to continue the steps to effectuate
14 the settlement; field telephone calls from Class Members regarding the Class Notice
15 and proposed Settlement, address updates, and other issues attendant to class
16 settlements, and oversee the Settlement Administrator's handling of the notice and
17 administration.

18 **QUALIFICATIONS AND EXPERIENCE**

19 16. S&A is one of California's largest plaintiff-only employment law firms.
20 With seasoned trial, appellate, and class action attorneys S&A has the experience,
21 resources, and expertise to successfully prosecute complex employment actions.

22 17. Since its founding in 1999, S&A has consistently been recognized as a
23 major force in employment litigation, making law on cutting-edge issues and
24 obtaining hundreds of millions of dollars in recovery for employees.

25 18. S&A employs seasoned class action attorneys who regularly litigate
26 wage and hour claims through certification and on the merits, and have considerable
27 experience settling wage and hour class actions.

28

1 19. I am an associate attorney at S&A. I received a B.A. from the University
2 of California, Los Angeles in 2007. I received my J.D. from Loyola Law School in
3 Los Angeles in 2015. I was admitted to practice and became an active member of the
4 State Bar of California in December 2015 and have been an active member in good
5 standing continuously since then. Since January 2016, I have been practicing as a
6 litigation attorney in Los Angeles with a focus on employment and consumer class
7 action litigation.

8 20. Anthony Nguyen is a partner and shareholder of S&A and is assigned to
9 work on this case. Mr. Nguyen received a B.A. from the University of California,
10 Berkeley in 2005. Mr. Nguyen received his J.D. from University of California, Los
11 Angeles, School of Law in 2008. Mr. Nguyen was admitted to practice and became an
12 active member of the State Bar of California in December 2008 and has been an
13 active member in good standing continuously since then. Mr. Nguyen focuses his
14 practice on employment litigation.

15 21. I am not aware of any conflicts of interest between S&A and the Class
16 Members nor between Plaintiffs and the Class Members. No one at S&A has any
17 financial interest in or otherwise has a relationship with CPT Group, Inc. which would
18 create a conflict of interest.

19 22. S&A has extensive experience litigating class actions and PAGA actions
20 in California. S&A is one of the leading Plaintiff's law firms in the United States,
21 with over \$300 million recovered for its clients in verdicts and settlements. A
22 representative list of those cases, excluding the instant case, that I litigated and played
23 an integral role in at S&A is as follows:

24 (a) In *Santos v. Harvard Label, Inc; et al.*, Los Angeles Superior Court
25 Case No. 19STCV41389, I obtained a \$1,300,000 class settlement on
26 behalf of approximately 678 nonexempt employees who allegedly were
27 not provided meal periods or rest breaks, were not paid all minimum
28 and overtime wages, did not receive accurate wage statements, were

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not paid all wages owed upon separation, and were subjected to defendant's unlawful, unfair, and deceptive business practices;

(b) In *Castillo; et al. v. Berger Transfer & Storage, Inc.; et al.*, Los Angeles Superior Court Case No. 20STCV31076, I obtained a \$765,000 class settlement on behalf of 61 allegedly misclassified truck drivers who allegedly were not paid all minimum wages for non-productive time, did not receive accurate wage statements, were not paid all wages owed upon separation, were not reimbursed all necessary, business-related expenses, had unlawful deductions from their earnings, and were subjected to defendant's unlawful, unfair, and deceptive business practices;

(c) In *Portillo; et al. v. AJR Trucking, Inc.; et al.*, Los Angeles Superior Court Case No. 19STCV15591, I obtained a \$1,095,000 settlement on behalf of approximately 823 truck drivers (two subclasses of hourly, nonexempt and misclassified independent contractors) who allegedly were not provided meal periods or rest breaks, were not paid all minimum and overtime wages, did not receive accurate wage statements, were not paid all wages owed upon separation, were not reimbursed and necessary, business-related expenses, and were subjected to defendant's unlawful, unfair, and deceptive business practices;

(d) In a set of two consolidated cases entitled *Hernandez v. CTC Global Corp.*, Orange County Superior Court Case No. 30-2020-01138945-CU-OE-CJC, co-counsel and I obtained a \$750,000 settlement on behalf of approximately 499 nonexempt employees who allegedly were not provided meal periods or rest breaks, were not paid all minimum and overtime wages, did not receive accurate wage statements, were

1 not paid all wages owed upon separation, and were subjected to
2 defendant's unlawful, unfair, and deceptive business practices;

3 (e) In *Miller v. Sea View Restaurants, Inc. dba Gladstones*, Los Angeles
4 Superior Court Case No. 20STCV00257, I obtained a \$275,000 PAGA
5 settlement on behalf of approximately 202 nonexempt restaurant
6 employees who allegedly were not provided meal periods or rest
7 breaks, were not paid all minimum and overtime wages, did not receive
8 accurate wage statements, were not paid all wages owed upon
9 separation, and were subjected to defendant's unlawful, unfair, and
10 deceptive business practices;

11 (f) In *Guth v. The Green Goddess, Inc.*, Los Angeles Superior Court Case
12 No. 20STCV12952, I obtained a \$150,000 class settlement (awaiting
13 final approval) on behalf of 261 nonexempt employees who allegedly
14 were not provided meal periods or rest breaks, were not paid all
15 minimum and overtime wages, did not receive accurate wage
16 statements, were not paid all wages owed upon separation, and were
17 subjected to defendant's unlawful, unfair, and deceptive business
18 practices;

19 (g) In *Garcia v. Del Real Foods, LLC; Staffmark Investment LLC*, Los
20 Angeles Superior Court Case No. 20STCV05491, I obtained a
21 \$700,000 class settlement on behalf of 3,706 nonexempt employees
22 who allegedly were not provided meal periods or rest breaks, were not
23 paid all minimum and overtime wages, did not receive accurate wage
24 statements, were not paid all wages owed upon separation, and were
25 subjected to defendant's unlawful, unfair, and deceptive business
26 practices;

27 (h) In *Rubio v. CSC ServiceWorks, Inc.*, United States District Court,
28 Central District Court of California Case No. 2:20-cv-02873-SB-GJS, I

1 obtained an \$825,000 settlement on behalf of 375 nonexempt
2 employees who allegedly were not provided meal periods or rest
3 breaks, were not paid all minimum and overtime wages, did not receive
4 accurate wage statements, were not paid all wages owed upon
5 separation, and were subjected to defendant's unlawful, unfair, and
6 deceptive business practices;

7 (i) In *Rios v. ESHU Enterprises, LLC dba Popeye's Chicken*, Los Angeles
8 Superior Court Case No. 20STCV35422, I obtained a \$300,000
9 settlement on behalf of 380 nonexempt employees who allegedly were
10 not provided meal periods or rest breaks, were not paid all minimum
11 and overtime wages, did not receive accurate wage statements, were
12 not paid all wages owed upon separation, and were subjected to
13 defendant's unlawful, unfair, and deceptive business practices;

14 (j) I was appointed class counsel in *Aguilar; Iturbide v. Santa Rosa Berry*
15 *Farms, LLC; et al.*, Ventura County Superior Court Case No. 56-2019-
16 00525899-CU-OE-VTA, in which I obtained a \$500,000 settlement
17 (amount increased to \$520,640.41 post-approval) on behalf of a class
18 of 1,647 nonexempt farm worker employees who allegedly were not
19 provided meal periods or rest breaks, were not paid minimum and
20 overtime wages, did not receive timely and accurate wage statements,
21 were not reimbursed for their business expenses, were not paid all
22 wages owed upon separation, and were subjected to defendant's
23 unlawful, unfair, and deceptive business practices;

24 (k) I was appointed class counsel in *Felder v. TBI Airport Management,*
25 *Inc.*, Los Angeles Superior Court Case No. 19STCV08563, in which I
26 obtained a \$100,000 settlement on behalf of only 17 nonexempt airport
27 employees who allegedly were not provided meal periods or rest
28 breaks, were not paid all minimum and overtime wages, did not receive

1 timely and accurate wage statements, were not paid all wages owed
2 upon separation, and were subjected to defendant's unlawful, unfair,
3 and deceptive business practices;

4 (l) I was appointed class counsel in *Estrada v. Sameday Insurance*
5 *Services, Inc.; et al.*, Los Angeles Superior Court Case No.
6 19STCV43499, in which we obtained a \$267,700 settlement on behalf
7 of a class of 105 nonexempt sales agent employees who allegedly were
8 not provided meal periods or rest breaks, were not paid minimum and
9 overtime wages, did not receive timely and accurate wage statements,
10 were not reimbursed for their business expenses, were not paid all
11 wages owed upon separation, and were subjected to defendant's
12 unlawful, unfair, and deceptive business practices;

13 (m) I was appointed class counsel in *Botello v. GL HMH, LLC; et al.*, LASC
14 Case No. 18STCV05209, in which we obtained a \$267,500 settlement on
15 behalf of a class of 375 nonexempt car dealership employees who
16 allegedly were not provided meal periods or rest breaks, were not paid
17 minimum and overtime wages, did not receive timely and accurate wage
18 statements, were not reimbursed for their business expenses, had wages
19 unlawfully deducted, were not paid all wages owed upon separation, and
20 were subjected to defendant's unlawful, unfair, and deceptive business
21 practices.

22 23. While at my prior law firm of Kabateck Brown Kellner LLP (KBK) I
23 successfully resolved several class actions under the supervision of reputable,
24 seasoned class action attorneys. A representative list of those cases I litigated and
25 played an integral role in while at KBK is as follows:

26 (a) I was appointed co-class counsel, through my prior firm KBK, in
27 consolidated actions *Singh, et al. v. Roadrunner Transportation Systems,*
28 *Inc., Central Cal Transportation, LLC; and Morgan Southern, Inc.; Rich,*

1 *et al. v. Roadrunner Transportation Systems, Inc., et al.*, and *Phillips v.*
2 *Roadrunner Transportation Systems, Inc., et al.*, Case No. 1:15-cv-01497
3 (E.D. Cal.), in which we obtained a \$9.25 million settlement on behalf of
4 a class of 897 drayage independent contractor truck drivers who were
5 misclassified and therefore, were not paid minimum wages nor all wages
6 owed ever pay period and upon separation, were not provided meal
7 periods or rest breaks, did not receive timely and accurate wage
8 statements, were not reimbursed for their business expenses, had wages
9 unlawfully deducted, and were subjected to defendant's unlawful, unfair,
10 and deceptive business practices;

11 (b) I was appointed co-class counsel, through my prior firm KBK, in the
12 action *Vargas, et al. v. Andrews International, Inc., et al.*, L.A.S.C. Case
13 No. BC601767, in which we obtained a \$4.7 million settlement on behalf
14 of a class of approximately 5,500 nonexempt security guards who were
15 not paid minimum wages nor all wages owed ever pay period and upon
16 separation, were not provided compliant meal periods or rest breaks, did
17 not receive timely and accurate wage statements, and were subjected to
18 defendant's unlawful and unfair business practices;

19 (c) I was appointed class counsel, through my prior firm KBK, in the action
20 *Craft, et al. v. RWI Transportation, LLC, et al.*, Case No. 2:2017-cv-
21 05289 (C.D. Cal.), in which we obtained a \$915,000 settlement on behalf
22 of a class of 584 drayage independent contractor truck drivers who were
23 misclassified and therefore, were not paid minimum wages nor all wages
24 owed ever pay period and upon separation, were not provided meal
25 periods or rest breaks, did not receive timely and accurate wage
26 statements, were not reimbursed for their business expenses, had wages
27 unlawfully deducted, and were subjected to defendant's unlawful, unfair,
28 and deceptive business practices;

1 (d) I was appointed class counsel, through my prior firm KBK, in the action
2 *Castro, et al. v. Pacific 9 Transportation, Inc., et al.*, L.A.S.C. Case No.
3 BC537252, in which we obtained a \$2.5 million settlement (amount
4 increased after Defendant declared bankruptcy, and the Bankruptcy
5 Court confirmed this new amount in Debtor-Defendant’s Chapter 11
6 Plan of Reorganization) on behalf of a class of drayage independent
7 contractor truck drivers who were misclassified and therefore, were not
8 paid minimum wages nor all wages owed ever pay period and upon
9 separation, were not provided meal periods or rest breaks, did not receive
10 timely and accurate wage statements, were not reimbursed for their
11 business expenses, and were subjected to defendant’s unlawful, unfair,
12 and deceptive business practices;

13 (e) I was appointed class counsel, through my prior firm KBK, in the action
14 *Marin, et al. v. General Assembly Space, Inc., et al.*, Case No. 2:17-cv-
15 05449 (C.D. Cal.), in which we obtained a \$1 million settlement on
16 behalf of a class of over 1,000 educational course instructors who were
17 misclassified and therefore, were not paid minimum wages and overtime
18 wages nor all wages owed ever pay period and upon separation, were not
19 provided meal periods or rest breaks, did not receive timely and accurate
20 wage statements, were not reimbursed for their business expenses, and
21 were subjected to defendant’s unlawful, unfair, and deceptive business
22 practices;

23 (f) I was appointed co-class counsel, through my prior firm KBK, in the
24 action *Everett, et al. v. Pulte Group, Inc., et al.*, Placer County Superior
25 Court Case No. SCV0033498, in which we obtained a \$675,000
26 settlement on behalf of a class of several hundreds of purchasers of and
27 homeowners with certain solar panel roof tiles in a products liability
28 class action;

1 (g) I was appointed class counsel, through my prior firm KBK, in the action
2 *Gomez, et al. v. Automobile Club of Southern California, Inc., et al.*,
3 L.A.S.C. Case No. BC564641, in which we obtained a \$500,000
4 settlement (half contingent on success of MSJ) on behalf of a class of
5 homeowner-policyholders who were subjected to Defendant's Wildfire
6 Smoke Endorsement imposing a \$5,000 sublimit on wildfire smoke
7 damage that the Court later ruled as unenforceable, granting Plaintiff's
8 Motion for Summary Judgment in the related action *Marrufo, et al. v.*
9 *Automobile Club of Southern California, Inc., et al.*, L.A.S.C. Case No.
10 BC597839;

11 (h) I was appointed co-class counsel, through my firm KBK, in related
12 actions *Hernandez, et al. v. Gold Point Transportation, Inc.*, L.A.S.C.
13 Case No. BC477445, and *Hall, et al. v. Gold Point Transportation, Inc.*,
14 L.A.S.C. Case No. BC516215, in which we obtained a \$2.8 million
15 settlement on behalf of a class of 707 drayage independent contractor
16 truck drivers who were misclassified and therefore, were not paid
17 minimum or overtime wages nor all wages owed ever pay period and
18 upon separation, were not provided meal periods or rest breaks, did not
19 receive timely and accurate wage statements, were not reimbursed for
20 their business expenses, and were subjected to defendant's unlawful,
21 unfair, and deceptive business practices;

22 (i) In *Castaneda, et al. v. Western Freight Carrier, Inc.*, L.A.S.C. Case No.
23 BC564481, I was appointed class counsel, through my firm KBK, in a
24 \$1.5 million settlement of the class action on behalf of 257 drayage truck
25 drivers, in which Plaintiff alleged that Western Freight Carrier, Inc.
26 misclassified employees as independent contractors; failed to provide
27 meal periods and rest breaks; failed to reimburse business expenses and
28 pay overtime and minimum wages and all wages owed every pay period

1 and upon separation; failed to furnish timely and accurate wage
2 statements; and violated Business & Professions Code section 17200 *et*
3 *seq.* of California’s Unfair Competition Act;

4 (j) In *Mendoza v. Pacer Cartage, Inc.*, Case No. 13-cv-2344, (S.D. Cal.), I
5 was appointed class counsel, through my firm KBK, in a \$2.7 million
6 settlement on behalf of the final Class of 520 independent contractor
7 truck drivers who were misclassified as such and therefore, were not paid
8 minimum or overtime wages nor all wages owed ever pay period and
9 upon separation, were not provided meal periods or rest breaks, did not
10 receive timely and accurate wage statements, were not reimbursed for
11 their business expenses, and were subjected to defendant’s unlawful,
12 unfair, and deceptive business practices;

13 (k) In *Estrada, et al. v. Harbor Express, Inc.*, L.A.S.C. Case No. BC508808,
14 I was appointed class counsel, through my firm KBK, in a \$1.3 million
15 settlement of the class action on behalf of 487 drayage truck drivers, in
16 which Plaintiff alleged that Harbor Express, Inc. misclassified employees
17 as independent contractors; failed to provide meal periods and rest
18 breaks; failed to reimburse business expenses and pay overtime and
19 minimum wages and all wages owed every pay period and upon
20 separation; failed to furnish timely and accurate wage statements; and
21 violated Business & Professions Code section 17200 *et seq.* of
22 California’s Unfair Competition Act; and

23 (l) In *Ruiz, et al. v. Fred Loya Insurance*, L.A.S.C. Case No. BC547879, I
24 was appointed class counsel, through my firm KBK, in a \$700,000
25 settlement on behalf of 166 class members, in which Plaintiff alleged that
26 Fred Loya Insurance misclassified its employees; failed to provide meal
27 periods and rest breaks; failed to reimburse business expenses and pay
28 overtime and minimum wages and all wages owed every pay period and

1 upon separation; failed to furnish timely and accurate wage statements;
2 and violated Business & Professions Code section 17200 *et seq.* of
3 California's Unfair Competition Act.

4 **Verdicts**

5 24. S&A employs several seasoned trial attorneys and has extensive
6 experience litigating a variety of employment actions in California. A representative
7 list of actions that have resolved at trial or settlement is as follows:

- 8 (a) S&A obtained a \$155 million verdict in *Andrew Rudnicki v. Farmers*
9 *Insurance Exchange and Farmers Insurance Group; et al.*, L.A.S.C.
10 Case No. BC630158, a wrongful termination case;
- 11 (b) S&A obtained a \$31,089,793 verdict in *Codie Rael v. Axis SybronEndo;*
12 *et al.*, L.A.S.C. Case No. BC584994, an age discrimination and
13 constructive discharge case;
- 14 (c) S&A obtained a \$26.1 million verdict in *Bobby Dean Nickel v. Staples,*
15 *Inc; et al.*, L.A.S.C. Case No. BC481391, an age discrimination case;
- 16 (d) S&A obtained a \$21.7 million verdict in *April Rodriguez v. Valley Vista*
17 *Services, Inc; et al.*, L.A.S.C. Case No. BC473793, a disability
18 discrimination case;
- 19 (e) S&A obtained a \$16,673,514 verdict in *Rickey Moland v. McWane Inc;*
20 *et al.*, L.A.S.C. Case No. BC559796, a racial discrimination and
21 wrongful termination case;
- 22 (f) S&A obtained a \$15.4 million verdict in *TJ Simers v. Los Angeles Times;*
23 *et al.*, L.A.S.C. Case No. BC524471, a disability discrimination and age
24 discrimination case;
- 25 (g) S&A obtained a \$13,011,671 verdict in *Dr. Lauren Pinter-Brown v.*
26 *University of California Los Angeles; et al.*, L.A.S.C. Case No.
27 BC624838, a gender discrimination, retaliation, and constructive
28 discharge case;

- 1 (h) S&A obtained a \$9.1 million verdict in *Sonia Lozano v. Alcoa*
2 *Fastenings Systems Inc; et al.*, L.A.S.C. Case No. BC329868, a violation
3 of CFRA, disability discrimination, retaliation, and unfair business
4 practice case;
- 5 (i) S&A obtained a \$8.8 million verdict in *Robert Leggins v. Rite Aid Corp.;*
6 *et al.*, L.A.S.C. Case No. BC511139, a racial discrimination, age
7 discrimination, harassment, and wrongful termination case;
- 8 (j) S&A obtained a \$8,461,391 verdict in *Talbert Mitchell v. SEIU Local*
9 *721; et al.*, L.A.S.C. Case No. BC575572, a disability discrimination,
10 retaliation, and whistleblower case;
- 11 (k) S&A obtained a \$7,020,000 verdict in *Lili Hadsell v. City of Baldwin*
12 *Park; et al.*, L.A.S.C. Case No. BC548602, a gender discrimination,
13 retaliation, and wrongful termination case;
- 14 (l) S&A obtained a \$6,012,258 verdict in *Maria C. Martinez v Rite Aid*
15 *Corp.; et al.*, L.A.S.C. Case No. BC292672, an intentional infliction of
16 emotional distress and wrongful termination case;
- 17 (m) S&A obtained a \$4,573,835 verdict in *Della Hill v. Asian*
18 *American Drug Abuse Program, Inc; et al.*, L.A.S.C. Case No.
19 BC582516, a failure to accommodate and wrongful termination case; and
- 20 (n) S&A obtained a \$1,829,160 verdict in *Cynthia Begazo v. Passages*
21 *Malibu PHP LLC; et al.*, L.A.S.C. Case No. BC595150, a disability
22 discrimination, whistleblower and wrongful termination case.

23 **Settlements**

- 24 (a) In *Walsh v. Pacific Bell Telephone Co. dba AT&T*, Orange County
25 Superior Court Case No. 30-2011-00498062-CU-OE-CXC, S&A was
26 appointed co-class counsel in a \$16.8 million settlement on behalf of a
27 class of 4,235 current and former call center employees who were
28 subjected to Defendant’s “total absence” attendance policy that

1 unlawfully punished employees for taking protected medical and/or
2 disability leaves of absence in violation of the California Fair
3 Employment and Housing Act (“FEHA”), the California Family Rights
4 Act (“CFRA”), and California Business and Professions Code section
5 17200;

6 (b) S&A recovered \$10 million in a confidential settlement on behalf of a
7 client alleging sexual orientation discrimination, harassment, retaliation,
8 and wrongful termination;

9 (c) S&A recovered \$10 million in a confidential settlement on behalf of a
10 client alleging age discrimination, intentional infliction of emotional
11 distress, and wrongful termination

12 (d) S&A recovered \$7.75 million in a confidential settlement on behalf of a
13 client alleging age discrimination, retaliation, failure to accommodate
14 and engage in the interactive process, and wrongful termination;

15 (e) S&A recovered \$6 million in a confidential settlement on behalf of a
16 client alleging pregnancy discrimination, disability discrimination,
17 retaliation, failure to accommodate and engage in the interactive process,
18 and wrongful termination;

19 (f) S&A recovered \$5 million in a confidential settlement on behalf of a
20 client alleging disability discrimination, retaliation, failure to
21 accommodate and engage in the interactive process;

22 (g) S&A recovered \$4.6 million in a confidential settlement on behalf of a
23 client alleging racial discrimination, age discrimination, retaliation,
24 failure to provide personnel file and pay statements;

25 (h) S&A recovered \$4.25 million in a confidential settlement on behalf of a
26 client alleging disability discrimination, retaliation, failure to
27 accommodate and engage in the interactive process, and wrongful
28 termination;

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- (i) S&A recovered \$3.5 million in a confidential settlement on behalf of a client alleging retaliation, defamation, and wrongful termination;
- (j) S&A recovered \$3 million in a confidential settlement on behalf of a client alleging age discrimination, failure to accommodate and engage in the interactive process, retaliation, and wrongful termination; and
- (k) S&A recovered \$3 million in a confidential settlement on behalf of a client alleging disability discrimination, racial discrimination, and age discrimination.

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

Executed this 4th day of March 2023 at Los Angeles, California.



Cheryl A. Kenner

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13 *Attorneys for Plaintiff William Baber*

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OMAR ZINE, individually, and on behalf of
17 other members of the general public similarly
situated,

18 Plaintiff,

19 vs.

20 NESPRESSO USA, INC., a Delaware
corporation; and DOES 1 through 10, inclusive,

21 Defendants.

22 WILLIAM BABER, an individual, on behalf of
23 himself and all others similarly situated and
aggrieved,

24 Plaintiff,

25 vs.

26 NESPRESSO USA, INC., a Delaware
corporation; NESTLE USA, INC., a Delaware
corporation; and DOES 1 through 100, inclusive,

27 Defendants.
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Case No.: 3:20-cv-05144-SK
Consolidated with 3:21-cv-00487-JSC

Assigned to the Hon. Sallie Kim

**DECLARATION OF IRVIN GARCIA ON
BEHALF OF CPT GROUP, INC., THE
SETTLEMENT ADMINISTRATOR**

Date: May 8, 2023
Time: 9:30 a.m.
Place: Courtroom C

DECLARATION OF IRVIN GARCIA

I, Irvin Garcia, hereby declare:

1. I am employed as a case manager by CPT Group, Inc. (“CPT”), the Court-appointed settlement administrator. I am authorized to make this declaration on behalf of CPT. As the case manager for this settlement, I have personal knowledge of the information provided herein, and if called as a witness, I could and would accurately testify thereto.

2. CPT was engaged by Plaintiffs Omar Zine and William Baber (“Plaintiffs”) and Defendant Nespresso USA, Inc. (“Defendant”) (collectively, the “Parties”) to provide settlement administration services. CPT has been, and if the Court grants final approval of the Settlement, will be responsible for: (a) printing and mailing the Notice of Class Action Settlement (“Notice Packet”) to all Class Members; (b) calculating and distributing the Individual Settlement Payments; (c) tax reporting; (d) providing necessary reports and declarations; and (e) performing such other tasks as set forth in the Settlement Agreement or as the Parties mutually agree or that the Court orders.

3. On December 12, 2022, CPT received from Class Counsel the Notice Packet prepared by the Parties and approved by the Court. On January 19, 2023, counsel for Defendant provided CPT with an updated complete mailing list (“Class List”) which included each Class Member’s full name, most recent mailing addresses, Social Security Numbers, and other relevant information needed to calculate settlement payments.

4. The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database (“NCOA”) maintained by the U.S. Postal Service. On January 23, 2023, Notice Packets were mailed to the 577 Class Members identified in the Class List by First Class mail.

5. As of this date, 52 Notice Packets have been returned by the post office. For those without forwarding addresses, CPT performed skip traces to locate new mailing addresses. A total of 33 Notice Packets were re-mailed because a better mailing address was found. Altogether, 19 Notice Packets were unable to be delivered because a better mailing address could not be found.

6. CPT has received zero (0) valid Requests for Exclusion.

7. CPT has received no objections to the settlement.

1 8. CPT received one request from an omitted class member to be added to the settlement
2 class. Defense Counsel has confirmed that this person should have been included and approved the
3 request. CPT has provided the Class Member a Class Notice and added the person to the list of
4 participating class members.

5 9. A total of 578 Class Members will be paid their portion of the Net Settlement Fund.
6 Each Class Member's share of the Net Settlement Fund will be proportional to the number of
7 Workweeks he or she worked during the Class Period. According to Defendant's records, Class
8 Members in aggregate worked a total of 43,531 Workweeks during the Class Period. Each Workweek is
9 accordingly valued at \$11.10. The average estimated payment is \$836.22 and the highest is \$3,242.13.

10 10. A total of 351 PAGA Members will be paid their portion of the PAGA Fund. Each
11 PAGA Member's share of the PAGA Fund will be proportional to the number of Workweeks he or she
12 worked during the PAGA Period. According to Defendant's records, PAGA Members in aggregate
13 worked a total of 20,354 Workweeks during the PAGA Period. Each Workweek is accordingly valued at
14 \$0.98. The average estimated payment is \$34.60 and the highest is \$145.43.

15 11. CPT's costs in connection with the administration of this Settlement are \$10,000.

16 12. Attached as Exhibit A is a true and correct copy of the Notice of Class Action Settlement
17 template that CPT mailed to all Class Members. Attached as Exhibit B is a true and correct copy of
18 CPT's invoice for settlement administration costs.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of April, 2023, at Irvine, California.



Irvin Garcia

EXHIBIT A

LEGAL NOTICE:

If you worked for Nespresso USA, Inc. (“Defendant”) in California as non-exempt employee at any time during the period June 3, 2016 through January 4, 2022, a class and representative action settlement will affect your rights.

A court authorized this notice. You are not being sued. This notice affects your rights. Please read it carefully.

Zine v. Nespresso USA, Inc., Case No. 3.20-cv-051440SK (N.D. Cal.)
Baber v. Nespresso USA, Inc., 3:21-cv-00487-JSC (N.D. Cal.)
 UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA
 NOTICE OF CLASS ACTION SETTLEMENT

To: All persons employed in California by Defendant Nespresso USA, Inc. (“Defendant”) as non-exempt employees at any time during the period from June 3, 2016 through January 4, 2022 (“Class Members”).

All persons employed in California by Defendant as non-exempt employees at any time during the period from March 6, 2019 through January 4, 2022 (“PAGA Members”).

On December 12, 2022, the Honorable Sallie Kim of the United States District Court, Northern District of California granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 9:30 a.m. on May 8, 2023 in Courtroom C of the United States District Court, Northern District of California located at 450 Golden Gate Avenue, San Francisco, California 94102.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at <https://www.cptgroupcaseinfo.com/NespressoSettlement>, by contacting class counsel at 1-888-402-0718, by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit the settlement website, <https://www.cptgroupcaseinfo.com/NespressoSettlement>, or the Court’s PACER site, to confirm that the date has not changed.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF THE LAWSUITS

Plaintiffs Omar Zine and William Baber, on their behalf and on behalf of other current and former non-exempt employees, allege in their separate class action lawsuits (“Actions”) that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks or pay premium payments; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse employees for necessary business expenses; (5) pay vested vacation time and paid time off upon termination; and (6) provide employees with accurate, itemized wage statements. Defendant has denied these allegations.

Questions? Contact the Settlement Claims Administrator toll free at 1-888-317-0413

«EmployeeName»

CPT ID: «ID»

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On October 4, 2021, the parties participated in a mediation with Jeffrey Krivis, Esq. an experienced and well-respected class action mediator. With Mr. Krivis' guidance, the parties were able to negotiate at arm's length a complete settlement of Plaintiffs' claims.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the class in this settlement, Capstone Law APC and Shegerian & Associates, Inc. ("Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiffs' claims and that it has paid all wages due its employees legally and fairly. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Defendant has already spent substantial amounts of time, energy and resources defending this case and, unless this settlement is agreed to, will have to continue to devote time, energy and resources to the defense of the claims asserted by the Class. Defendant has also taken into account the risks of further litigation in reaching its decision. Defendant has, therefore, agreed to settle in the manner and upon the terms set forth in the Settlement Agreement to put to rest the claims as set forth in the Action.

SUMMARY OF THE PROPOSED SETTLEMENT TERMS

Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$950,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) Class Representative Enhancement Payments of \$5,000, each, to Omar Zine and William Baber for their services on behalf of the class, and additional General Release Payments of \$5,000, each, for a release of all claims arising out of their employment with Defendant; (3) up to \$316,667 in attorneys' fees and up to \$40,000 in litigation costs and expenses; (4) an \$80,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$60,000 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA, and a \$20,000 payment ("PAGA Fund") to all PAGA Members; and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$10,000.00. After deducting the above payments, a total of approximately \$483,333.00 will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Fund"). Additionally, all PAGA Members will receive a proportional share of the \$20,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. To determine the amount of the Net Settlement Fund to which each Class Member is entitled, the Settlement Administrator used the workweek information provided by Defendant and agreed to by Plaintiff to calculate the total number of workweeks worked by each Class Member ("during the Class Period" ("Individual Workweeks")) and the total number of workweeks worked by all Class Members ("Total Class Workweeks") during the Class Period.

To then calculate the Individual Payments, Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the "Workweek Value." Each Class Member's share of the Net Settlement Fund will be calculated by multiplying each individual Class Member's total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

Questions? Contact the Settlement Claims Administrator toll free at 1-888-317-0413

According to Defendant's records, you worked during the Class Period in a non-exempt position for a total of «WWks» Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately «Class_estAmount».

Payments from PAGA Fund. To determine the amount of the PAGA Fund to which each PAGA Member is entitled, the Settlement Administrator used the workweek information provided by Defendant and agreed to by Plaintiff to calculate the total number of workweeks worked by each PAGA Member from March 6, 2019 through January 4, 2022 ("PAGA Period") and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period.

To determine each PAGA Member's estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks, resulting in the "PAGA Workweek Value." Each PAGA Member's share of the PAGA Fund will be calculated by multiplying each individual PAGA Member's total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you worked during the PAGA Period in a non-exempt position for a total of «PWks» Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately «PAGA_estAmount».

Your Estimated Payment: Based on the above, **your estimated payment from the settlement is approximately «TotalestAmount».** If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before March 9, 2023 and must be sent to:

Zine, et. al v. Nespresso USA, Inc., et. al
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for interest, penalties, and unreimbursed business expenses for which IRS Forms 1099-MISC will be issued.

HOW WILL THE LAWYERS BE PAID?

From the Class Settlement Amount, Plaintiffs will ask the Court to approve up to \$316,667 in attorneys' fees, \$40,000 in litigation costs and expenses, and \$5,000 to each Plaintiff for Class Representative Enhancement Payments, and \$5,000 to each Plaintiff for General Release Payments. Plaintiffs will file a motion for Court approval of the above amounts by February 2, 2023. The motion will be available for download at <https://www.cptgroupcaseinfo.com/NespressoSettlement>.

YOUR OPTIONS UNDER THE SETTLEMENT

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

Questions? Contact the Settlement Claims Administrator toll free at 1-888-317-0413

«EmployeeName»

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims that accrued during the Class Period and if you are also a PAGA Member, the Released PAGA Claims that accrued during the PAGA Period:

Released Class Claims: All claims asserted in the Actions, reasonably arising from or related to the facts and claims alleged in the Actions, or that reasonably could have been raised in the Actions based on the facts and claims alleged in the operative civil complaints for each Action and all amendments thereto, including all claims for unpaid wages, minimum wage, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay for overtime or for any purpose; meal period and rest-period premiums, including failure to pay premiums at the regular rate of compensation; reimbursement for all necessary business expenses; payment for all time spent in connection with security checks and all hours worked, including off-the-clock and unrecorded work; failure to pay vacation and paid time off upon termination; failure to provide accurate and timely wage statements; unfair business practices; penalties, including, but not be limited to, civil penalties, statutory penalties, recordkeeping penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related to the Released Claims arising under: the California Labor Code (including, but not limited to, sections 200, 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 227.3, 500, 510, 512, 516, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, and 2802), the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200, *et seq.* This release excludes the release of claims not permitted by law.

Released PAGA Claims: all claims asserted through California Labor Code §§ 2698, *et seq.*, that reasonably arise out of, or are related to, the Released Class Claims during the PAGA Period.

Option 2 – Opt-Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Zine, et. al v. Nespresso USA, Inc., et. al
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

The Request for Exclusion must be postmarked or faxed not later than March 9, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by March 9, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class. To fax your request for exclusion, the Settlement Administrator's fax number is: 949-419-3446.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will, however, release the Released PAGA Claims and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

You may object to the terms of the settlement before the Final Approval Hearing. However, if the Court rejects your objection, you will still be bound by the terms of the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Questions? Contact the Settlement Claims Administrator toll free at 1-888-317-0413

«EmployeeName»

CPT ID: «ID»

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Zine v. Nespresso USA, Inc.*, Case No. 3.20-cv-051440SK (N.D. Cal.)), (b) be filed with the Court and served on the Parties on or before March 9, 2023.

By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for May 8, 2023 at 9:30 a.m. in the United States District Court, Northern District of California and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, and if the Court approves the settlement, you will still be entitled to the money from the settlement and you will be deemed to have released the Released Class Claims, and if you are also a PAGA Member, the Released PAGA Claims.

ADDITIONAL INFORMATION

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case.

If you have any questions, you can call the Settlement Administrator at 1-888-317-0413 or counsel of record.

The Settlement Administrator's complete contact information is as follows:

Zine, et. al v. Nespresso USA, Inc., et. al

c/o CPT Group, Inc.

50 Corporate Park

Irvine, CA 92606

Telephone: 1-888-317-0413

Fax: 949-419-3446

Case Website: <https://www.cptgroupcaseinfo.com/NespressoSettlement>

ATTORNEYS – COUNSEL OF RECORD

CLASS COUNSEL

Raul Perez

CAPSTONE LAW APC

1875 Century Park E., Suite 1000

Los Angeles, CA 90067

Phone: 1-888-402-0718

Cheryl A. Kenner

SHEGERIAN & ASSOCIATES, INC.

11520 San Vicente Boulevard

Los Angeles, CA 90049

Phone: 424-231-0178

*For Spanish, please call Celeste at 424-416-0225

NESPRESSO'S ATTORNEYS

SHEPPARD, MULLIN,

RICHTER & HAMPTON LLP

Tracey A. Kennedy

tkennedy@sheppardmullin.com

Morgan P. Forsey

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Brett D. Young

byoung@sheppardmullin.com

333 South Hope Street, 43rd Floor

Los Angeles, California 90071-1422

Telephone: 213-620-1780

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.

Questions? Contact the Settlement Claims Administrator toll free at 1-888-317-0413

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EXHIBIT B



Class Action Administrators

www.cptgroup.com

Contact Name: Timothy Phillips
 Vice President, Business Development
Corporate Headquarters
 50 Corporate Park, Irvine CA 92606
 TIM@CPTGroup.com
Direct Number: (818) 415-2703
Main Number: (800) 542-0900

Zine v. Nespresso USA, Inc.

All-In Settlement

Class Size: 578
Opt-Out Rate: 0.00%
No. of Checks Issued: 578
Postage Total: \$780.26
Grand Total: \$16,182.71

DISCOUNTED FLAT FEE: \$10,000.00

CASE SETUP

Upon Intake of the Data, CPT will Scrub all Records to a Useable Format to Reduce Duplicates, Anomalies and Increase the Success Rate of Deliverability of the Class Notice. Class Members will be Assigned a Unique Mailing ID which will be Used Throughout Administration. All Pertinent Documents will be Posted on a Case Specific Website. The Notice Packet will be Translated Upon Request.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	5	\$475.00
Programming: Data Base Setup	\$150.00	5	\$750.00
Static Website	\$500.00	1	\$500.00
Spanish Translation	\$1,200.00	1	\$1,200.00
TOTAL			\$2,925.00

DIRECT MAIL NOTICE

To Ensure Mailing to the Most Current Address Possible, CPT will Perform an Address Update via NCOA. CPT will Mail a Full-Length Notice & 1-Page Exclusion Form.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$135.00	1	\$135.00
Print & Mail Notice Packets	\$1.00	578	\$578.00
First-Class Postage (up to 1 oz.)	\$0.60	578	\$346.80
TOTAL			\$1,249.80

PROCESS RETURNED UNDELIVERABLE MAIL

Based On CPT's Historical Data, 6% of the Notices will be Returned Undeliverable. Upon Receipt, CPT will Perform a Skip Trace in an Attempt to Obtain a Current Address; Thus, 91% of the Notice Packets are Rемаiled.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	1	\$60.00
Update Undeliverable Mail Database	\$0.50	19	\$9.50
Skip Trace for Best Address	\$1.00	41	\$41.00
Print & Remail Notice Packets	\$1.00	33	\$33.00
First-Class Postage (up to 1 oz.)	\$0.60	33	\$19.80
TOTAL			\$163.30

OPT-OUT PROCESSING

CPT will Process and Validate all Opt-Outs and Other Responses from Class Members. Deficient Opt-Outs will Receive a Deficiency Notice by Mail and Provide an Opportunity to Cure. CPT will Scrub the Filed Opt-Outs to Eliminate Duplicates, Fraudulent, and Otherwise Invalid.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	1	\$150.00
Project Manager: Validate Opt-Out Requests	\$95.00	0	\$0.00
Clerical Staff	\$60.00	0	\$0.00
Opt-Out & Change of Address Processing	\$2.00	0	\$0.00
Print & Mail Deficiency/Dispute Notices	\$1.50	0	\$0.00
First-Class Postage (up to 1 oz.)	\$0.60	0	\$0.00
Review & Process Deficiency Responses	\$10.00	0	\$0.00
		TOTAL	\$150.00

TELEPHONE SUPPORT

CPT will Maintain a Toll-Free Phone Number with IVR Capabilities and Live Class Member Support Representatives During Normal Business

Hours, Monday-Friday, 9:00 AM - 5:30 PM, PT. The Dedicated Case Phone Number will Remain Active Up to 120 Days After Disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	12	\$36.00
		TOTAL	\$336.00

SSN VERIFICATION

Verify SSN for Validity with IRS / IRS Backup Withholdings

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	578	\$57.80
		TOTAL	\$492.80

DISTRIBUTION SERVICES

CPT will Establish and Manage the Qualified Settlement Fund (QSF) for up to One Year After Disbursement. Upon Approval, CPT will Perform all Necessary Calculations and Disburse Funds. CPT will Mail an 8.5"x11" MICR Check to Valid Class Members. CPT Uses a Payee Positive Pay System to Reconcile Checks Cashed and Conducts Monthly Account Reconciliations for the QSF.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	3	\$450.00
Project Manager: Correspondence w/Parties	\$95.00	2	\$190.00
Programming: Setup & Printing of Checks	\$150.00	3	\$450.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.50	578	\$1,445.00
First-Class Postage (up to 1 oz.)	\$0.60	578	\$346.80
		TOTAL	\$3,781.80

POST-DISTRIBUTION & TAX REPORTING

Any Check Returned Undeliverable is Skip Traced to Locate a Current Address and Remailed Accordingly. CPT will Process Requests for Check Reissues Continuously. CPT Prepares Annual Tax Reporting on Behalf of the QSF and Federal and State Taxes in Accordance with Current State and Federal Regulations. Upon the Conclusion of the Settlement, a Final Report and Declaration will be Provided to all Parties.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Account Reconciliation	\$150.00	10	\$1,500.00
Update Undeliverable Checks Database	\$0.50	46	\$23.00
Skip Trace for Best Address	\$1.00	46	\$46.00
Remail Undeliverable Checks	\$2.50	42	\$105.00
First-Class Postage (up to 1 oz.)	\$0.60	42	\$25.20
Re-Issue Checks as Required	\$5.00	29	\$145.00
First-Class Postage (up to 1 oz.)	\$0.60	29	\$17.40

Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation	\$600.00	1	\$600.00
Annual Tax Reporting to IRS	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$4,901.60

SCO ESCHEATMENT PROCESSING

Escheatment Processing to the State Controller Unclaimed Property Division / Uncashed Check Rate 21%			
ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
UPEnterprise Reporting Services	\$0.15	121	\$18.15
Project Manager: SCO Fall Reporting	\$95.00	2	\$190.00
Project Supervisor: Review of SCO Reports	\$150.00	1	\$150.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Check Reissues for Winter/Spring QTR	\$5.00	12	\$60.00
First-Class Postage (up to 1 oz.)	\$0.60	12	\$7.20
Project Supervisor: June Remittance	\$150.00	1	\$150.00
Project Manager: June Remittance	\$95.00	2	\$190.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Add'l Account Recons	\$150.00	6	\$900.00
Add'l QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$2,182.41

GRAND TOTAL \$16,182.71

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 11 Los Angeles, California 90049
 Telephone: (310) 860-0770
 12 Facsimile: (310) 860-0771

13 *Attorneys for Plaintiff William Baber*

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OMAR ZINE, individually, and on behalf of
 17 other members of the general public similarly
 situated,

18 Plaintiff,

19 vs.

20 NESPRESSO USA, INC., a Delaware
 corporation; and DOES 1 through 10, inclusive,

21 Defendants.

22 WILLIAM BABER, an individual, on behalf of
 himself and all others similarly situated and
 23 aggrieved,

24 Plaintiff,

25 vs.

26 NESPRESSO USA, INC., a Delaware
 corporation; NESTLE USA, INC., a Delaware
 corporation; and DOES 1 through 100, inclusive,

27 Defendants.
 28

Case No.: 3:20-cv-05144-SK
 Consolidated with 3:21-cv-00487-JSC

Assigned to the Hon. Sallie Kim

**[PROPOSED] ORDER GRANTING MOTION
 FOR FINAL APPROVAL OF CLASS
 ACTION AND PAGA SETTLEMENT**

Date: May 8, 2023
 Time: 9:30 a.m.
 Place: Courtroom C

ORDER

1
2 This matter came before the Court for a hearing on the Motion for Final Approval of the Class
3 Action and PAGA Settlement (the “Motion”). Due and adequate notice having been given to Class
4 Members as required by the Court’s Preliminary Approval Order, and the Court having reviewed the
5 Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully
6 informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

7 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and
8 incorporated herein by reference, this Court finds that the requirements of F.R.C.P. 23(e) have been
9 satisfied.

10 2. This Order hereby adopts and incorporates by reference the terms and conditions of the
11 Joint Stipulation of Class Action and PAGA Settlement and Release (collectively, “Settlement
12 Agreement” or “Settlement”), together with the definitions and terms used and contained therein.

13 3. The Court finds that it has jurisdiction over the subject matter of the action and over all
14 parties to the action, including all members of the Settlement Class.

15 4. The Class Notice fully and accurately informed Class Members of all material elements
16 of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable
17 under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully
18 with the laws of the State of California and due process. The Class Notice fairly and adequately
19 described the settlement and provided Class Members with adequate instructions and a variety of means
20 to obtain additional information.

21 5. Class Members were given a full opportunity to participate in the Final Approval
22 hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the
23 Court determines that all Class Members who did not timely and properly opt out of the settlement are
24 bound by this Order.

25 6. The Court has considered all relevant factors for determining the fairness of the
26 settlement and has concluded that all such factors weigh in favor of granting final approval. In particular,
27 the Court finds that the settlement was reached following meaningful discovery and investigation
28 conducted by Plaintiffs’ Counsel; that the settlement is the result of serious, informed, adversarial, and

1 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
2 adequate, and reasonable.

3 7. In so finding, the Court has considered all evidence presented, including evidence
4 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the
5 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
6 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
7 sufficient information about the nature and magnitude of the claims being settled, as well as the
8 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
9 which the Parties have agreed.

10 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
11 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
12 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
13 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
14 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
15 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
16 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
17 provides Class Members with fair and adequate relief.

18 9. The Settlement Agreement is not an admission by Defendant or by any other Released
19 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
20 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
21 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
22 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
23 whatsoever by or against Defendant or any of the other Released Parties.

24 10. Final approval shall be with respect to a Settlement Class comprised of: All persons
25 employed in California by Defendant as non-exempt employees at any time during the period from June
26 3, 2016 through January 4, 2022.

27 11. Plaintiffs Omar Zine and William Baber are adequate and suitable representatives and
28 are hereby appointed the Class Representatives for the Settlement Class. The Court finds that Plaintiffs'

1 investment and commitment to the litigation and its outcome ensured adequate and zealous advocacy for
2 the Settlement Class, and that their interests are aligned with those of the Settlement Class.

3 12. The Court finds that the attorneys at Capstone Law APC and Shegerian & Associates,
4 Inc. have the requisite qualifications, experience, and skill to protect and advance the interests of the
5 Settlement Class. The Court therefore finds that counsel satisfy the professional and ethical obligations
6 attendant to the position of Class Counsel, and hereby appoints Capstone Law APC and Shegerian &
7 Associates, Inc. as counsel for the Settlement Class.

8 13. The settlement of civil penalties under PAGA in the amount of \$80,000 is hereby
9 approved. Seventy-Five Percent (75%), or \$60,000, shall be paid to the California Labor and Workforce
10 Development Agency. The remaining Twenty-Five Percent (25%), or \$20,000, will be paid to PAGA
11 Members.

12 14. All Class Members were given a full and fair opportunity to participate in the Approval
13 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
14 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
15 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
16 shall be forever binding on all Participating Class Members. These Participating Class Members have
17 released and forever discharged the Released Parties for any and all Released Class Claims:

18 All claims asserted in the Actions, reasonably arising from or related to the facts
19 and claims alleged in the Actions, or that reasonably could have been raised in the
20 Actions based on the facts and claims alleged in the operative civil complaints for
21 each Action and all amendments thereto, including all claims for unpaid wages,
22 minimum wage, overtime compensation, double-time compensation, and interest;
23 the calculation of the regular rate of pay for overtime or for any purpose; meal
24 period and rest-period premiums, including failure to pay premiums at the regular
25 rate of compensation; reimbursement for all necessary business expenses;
26 payment for all time spent in connection with security checks and all hours
27 worked, including off-the-clock and unrecorded work; failure to pay vacation and
28 paid time off upon termination; failure to provide accurate and timely wage
statements; unfair business practices; penalties, including, but not be limited to,
civil penalties, statutory penalties, recordkeeping penalties, and waiting-time
penalties; and attorneys' fees and costs; all claims related to the Released Claims
arising under: the California Labor Code (including, but not limited to, sections
200, 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 227.3, 500, 510, 512, 516,
558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
2800, and 2802), the Wage Orders of the California Industrial Welfare
Commission; California Business and Professions Code section 17200, *et seq.*
This release excludes the release of claims not permitted by law.

1 15. Additionally, all PAGA Members and the LWDA have released and forever discharged
2 the Released Parties for any and all Released PAGA Claims: All claims asserted through California
3 Labor Code §§ 2698, *et seq.*, that reasonably arise out of, or are related to, the Released Class Claims
4 during the PAGA Period.

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6 **IT IS SO ORDERED.**

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8 Dated: _____

Hon. Sallie Kim
United States Magistrate Judge

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13 *Attorneys for Plaintiff William Baber*

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OMAR ZINE, individually, and on behalf of
 17 other members of the general public similarly
 situated,

18 Plaintiff,

19 vs.

20 NESPRESSO USA, INC., a Delaware
 corporation; and DOES 1 through 10, inclusive,

21 Defendants.

22 WILLIAM BABER, an individual, on behalf of
 23 himself and all others similarly situated and
 aggrieved,

24 Plaintiff,

25 vs.

26 NESPRESSO USA, INC., a Delaware
 corporation; NESTLE USA, INC., a Delaware
 corporation; and DOES 1 through 100, inclusive,

27 Defendants.
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Case No.: 3:20-cv-05144-SK
 Consolidated with 3:21-cv-00487-JSC

Assigned to the Hon. Sallie Kim

[PROPOSED] JUDGMENT

Date: May 8, 2023
 Time: 9:30 a.m.
 Place: Courtroom C

JUDGMENT

Pursuant to the Order Granting the Motion for Final Approval of the Class Action and PAGA Settlement (“Order”), it is hereby **ORDERED, ADJUDGED, AND DECREED:**

1. Judgment in this matter is entered in accordance with, and incorporates by reference the findings of, the Court’s Order and the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement Agreement”). Unless otherwise provided herein, all capitalized terms used herein shall have the same meaning as defined in the Settlement Agreement.

2. This Judgment shall be binding on: All persons employed in California by Defendant as non-exempt employees at any time during the period from June 3, 2016 through January 4, 2022. These Participating Class Members have released and forever discharged the Released Parties for any and all Released Class Claims:

All claims asserted in the Actions, reasonably arising from or related to the facts and claims alleged in the Actions, or that reasonably could have been raised in the Actions based on the facts and claims alleged in the operative civil complaints for each Action and all amendments thereto, including all claims for unpaid wages, minimum wage, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay for overtime or for any purpose; meal period and rest-period premiums, including failure to pay premiums at the regular rate of compensation; reimbursement for all necessary business expenses; payment for all time spent in connection with security checks and all hours worked, including off-the-clock and unrecorded work; failure to pay vacation and paid time off upon termination; failure to provide accurate and timely wage statements; unfair business practices; penalties, including, but not be limited to, civil penalties, statutory penalties, recordkeeping penalties, and waiting-time penalties; and attorneys’ fees and costs; all claims related to the Released Claims arising under: the California Labor Code (including, but not limited to, sections 200, 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 227.3, 500, 510, 512, 516, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, and 2802), the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200, *et seq.* This release excludes the release of claims not permitted by law.

3. Additionally, all PAGA Members and the LWDA have released and forever discharged the Released Parties for any and all Released PAGA Claims: All claims asserted through California Labor Code §§ 2698, *et seq.*, that reasonably arise out of, or are related to, the Released Class Claims during the PAGA Period.

4. Without affecting the finality of the Judgment, the Court shall retain exclusive and continuing jurisdiction over the above-captioned action and the parties, including all Class Members and

1 PAGA Members, for purposes of enforcing the terms of the Judgment entered herein.

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3 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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5 Dated: _____

Hon. Sallie Kim
United States Magistrate Judge

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