

1 KRISTINA L. HILLMAN, SBN 208599
2 JANNAH V. MANANSALA, SBN 249376
3 ROBERTA D. PERKINS, SBN 153074
4 ALEXANDER S. NAZAROV, SBN 304922
5 MAXIMILLIAN D. CASILLAS, SBN. 311669
6 WINNIE VIEN, SBN. 347796
7 WEINBERG, ROGER & ROSENFELD
8 A Professional Corporation
9 1375 55th Street
10 Emeryville, CA 94608
11 Telephone: (510) 337-1001
12 courtnotices@unioncounsel.net
13 khillman@unioncounsel.net
14 jmanansala@unioncounsel.net
15 rperkins@unioncounsel.net
16 anazarov@unioncounsel.net
17 mcasillas@unioncounsel.net
18 wvien@unioncounsel.net

11 Attorneys for Plaintiffs MARCO DIMERCURIO
12 CHARLES GAETH, JOHN LANGLITZ and
13 MALCOLM SYNIGAL

13 *Additional Counsel Listed on Following Page*

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 MARCO DIMERCURIO, CHARLES
18 GAETH, JOHN LANGLITZ, and MALCOLM
19 SYNIGAL on behalf of themselves and others
20 similarly situated,

20 Plaintiffs,

21 v.

22 EQUILON ENTERPRISES LLC dba SHELL
23 OIL PRODUCTS US, and DOES 1
24 THROUGH AND INCLUDING 25,

25 Defendant.

No. 3:19-cv-04029-JSC

**DECLARATION OF DAVID POGREL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES
AND EXPENSES AND CLASS
REPRESENTATIVE SERVICE
AWARDS**

Date: May 9, 2024

Time: 10:00 a.m.

Crtrm: 8 – 19th Floor

Judge: Honorable Jacqueline Scott Corley

Complaint Filed: June 4, 2019

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Additional Counsel:

DAVID POGREL, SBN 203787
AMANDA EATON, SBN 341987
LEONARD CARDER, LLP
1999 Harrison Street, Suite 2700
Oakland, CA 94612
Telephone: (510) 272-0169
dpogrel@leonardcarder.com
aeaton@leonardcarder.com

Co-Counsel for Plaintiffs MARCO DIMERCURIO,
CHARLES GAETH, JOHN LANGLITZ, and
MALCOLM SYNIGAL

1 I, David P. Pogrel, hereby declare as follows:

2 1. I am an attorney at law, admitted to practice in this court, licensed to practice law in
3 California, and am a partner at Leonard Carder, LLP (“Leonard Carder”), one of the firms
4 representing Plaintiffs and the Class herein.

5 2. I make this declaration of personal knowledge, and if I am called as a witness I could
6 and would testify competently to the facts stated herein.

7 3. Along with my co-counsel at the Weinberg, Roger & Rosenfeld firm, my former law
8 partner Aaron Kaufmann and associate Amanda Eaton, I have personally participated in all aspects
9 of this litigation, including, but not limited to, written and oral discovery, the on-going investigation
10 of this case, preparation of amended complaints, motion for class certification, mediation and related
11 drafting of settlement documents, and motion for preliminary approval of the settlement and the
12 subject motion.

13 **BACKGROUND AND EXPERIENCE OF PLAINTIFFS’ COUNSEL**

14 4. Leonard Carder was founded nearly eighty (80) years ago and specializes in labor
15 and employment law. The firm – which now includes 25 attorneys – represents clients throughout
16 California and nationally, including labor unions, associated trust funds, and employees in
17 employment law class actions and other representative cases as well as single and multi-plaintiff
18 cases. As class counsel and counsel for employees in multi-plaintiff and PAGA representative
19 actions, Leonard Carder has actively commenced, prosecuted and concluded numerous state and
20 federal class and representative actions, almost all of which are employment law related.

21 5. A copy of my resume is attached hereto as Exhibit 1. I joined the Leonard Carder
22 firm as a partner on March 1, 2012. I worked at the HASK firm from February 2005 until February
23 29, 2012. I was a principal at HASK from January 2009 through February 2012. My practice at both
24 Leonard Carder and HASK has at all times emphasized employment litigation with particular focus
25 on wage and hour class, collective, and representation actions. Prior to joining HASK, I was a Staff
26 Attorney with the Legal Aid Society-Employment Law Center (LAS-ELC) (now “Legal Aid at
27 Work”) in San Francisco, California, a nationally recognized worker-advocacy organization
28 practicing in many areas of employment law on behalf of low-income and disenfranchised workers.

1 My practice at LAS-ELC focused primarily on representing individual employees in wage and hour
2 cases. I was the supervisor for the LAS-ELC legal services project that secured over \$1.2 million
3 dollars in judgments and settlements for wages on behalf of low-income workers during this tenure
4 of more than five years.

5 6. I have been selected as a Northern California “Super Lawyer” and “Rising Star”
6 for the years 2009 through 2023 by the Northern California Super Lawyers Magazine.

7 7. A copy of the resume of my former law partner Aaron Kaufmann is attached hereto
8 as Exhibit 2. Mr. Kaufmann has practiced law since November 1990, with an emphasis in
9 employment litigation. He was a partner at Leonard Carder from March 1, 2012 to December 31,
10 2023, when he withdrew from the Leonard Carder partnership on to start his own law firm. Prior to
11 joining Leonard Carder, Mr. Kaufmann worked at HASK for eight and one-half years, with the last
12 seven years as a principal. From August 1997 until August 2003, Mr. Kaufmann was an associate
13 at Goldstein, Demchak, Baller, Borgen & Dardarian (now Goldstein, Borgen, Dardarian & Ho).
14 There he was responsible for all facets of class action employment and other complex litigation,
15 from pre-filing investigation through trial and appeal. Since approximately November 1997, Mr.
16 Kaufmann spent most of his time representing workers in wage and hour matters, both individually
17 and in class and collective actions. He successfully tried and arbitrated several cases involving the
18 executive, administrative, and other overtime exemptions to California and federal overtime. He
19 also litigated these and other issues in class and collective actions throughout the past 26 or more
20 years, leading to favorable statewide class action and nationwide collective action settlements that
21 have recouped millions of dollars in unpaid wages and expenses.

22 8. A copy of the resume of Associate Amanda Eaton is attached hereto as Exhibit 3.
23 Ms. Eaton is a 2021 graduate of University of California, Davis Law School. She joined Leonard
24 Carder as an associate in November 2021 and was a law clerk with the firm before that.

25 9. Mr. Kaufmann, Ms. Eaton, my law firm colleagues and I have served as plaintiffs’
26 and class counsel in scores of wage and hour class, collective, and representative actions over the
27 past several years. The following is a small representative sample of those cases: *Wood v. Marathon*
28 *Refining Logistics Services, LLC*, N.D. Cal., Case No. 4:19-cv-04287-YGR (class counsel on

1 reporting time pay case for oil refinery operators); *Robinson v. Dreamcloud Brand LLC*, N.D. Cal.,
2 Case No. 3:20-cv-0140-JCS (nationwide FLSA collective action for overtime pay for customer
3 service representatives); *Lockwood v. Wells Fargo*, N.D. Cal., Case No. 3:15-cv-5239-JCS (class
4 counsel, along with Wynne Law firm, in loan officer expense reimbursement and late payment case,
5 including PAGA penalties); *McLeod v. Bank of America*, N.D. Cal. Case No. 16-cv-03294-EMC
6 (prosecuted home mortgage officers' expense reimbursement claims, including PAGA claims);
7 *Miguel Valadez, et al. v. CSX Intermodal Terminals, et al.*, N.D. Cal. Case No. 3:15-cv-05433-EDL
8 and *Anil Goyal, et al. v. CSX Intermodal Terminals, et al.* (U.S. N.D. Cal. Case No. 3:17-cv-06081-
9 EMC (wage and hour claims and PAGA penalties claims for 68 individual plaintiff drayage drivers
10 alleging independent contractor misclassification and other unnamed drivers); *Bartoni v. AMR West*,
11 Alameda County Superior Court, Case No. RG08382130 (class counsel for EMTs, paramedics, and
12 dispatchers' rest period claims, including PAGA penalties); *Lopez v. P.W. Stephens Environmental*,
13 *Inc.*, N.D. Cal., Case No. 3:15-cv-03579-JD (settlement class counsel for asbestos abatement
14 workers asserting break and minimum wage violations, including PAGA penalties); *Granados v.*
15 *Alameda County Industries*, N.D. Cal., Case No. 3:14-cv-03011-JD (settlement class counsel for
16 recycling workers' local living wage claims); *Alexander v. FedEx Ground Packages Systems, Inc.*,
17 N.D. Cal., Case No: 3:05-cv-38 EMC (independent contractor misclassification case for FedEx
18 pick-up and delivery drivers); *Barber et al. v. US Bank, N.A.*, (Contra Costa County Super. Ct. Case
19 No. MSC11-02173) (settlement class counsel for loan officers asserting expense reimbursement and
20 related claims); *Batta v. PNC Bank N.A. et al.*, (Contra Costa Super. Ct., Case No. MSC15-00728)
21 (settlement class counsel for loan officers asserting expense reimbursement and related claims);
22 *Kairy v. SuperShuttle*, N.D. Cal., Case No. 08-CV-02993-JSW (settlement class counsel for shuttle
23 drivers' claims arising from alleged independent contractor misclassification, including FLSA
24 claims); *Hoenemier v. Sun Microsystems, Inc.*, Santa Clara County Superior Court, Case No.
25 106CV-071531(certified class of 150 technical writers, resolving overtime and meal period
26 compensation claims); *Watts v. Sysco Corp.*, Alameda County Superior Court, Case No.
27 RG09464228 (Alameda County) (settlement class counsel in action to reimburse outside
28 salespersons for mileage, cell phone, and home office expenses); *Burdick v. U.S. Foodservice, Inc.*,

1 Alameda County Superior Court, Case No. RG09434440 (settlement class counsel to reimburse
2 outside salespersons for their out-of-pocket job-related expenditures); and *Gundersen v. Lennar*
3 *Homes*, N.D. Cal., Case No. CV-09-2270 CRB (collective action/settlement class counsel asserting
4 exemption misclassification case under California law and the FLSA on behalf of assistant
5 construction managers).

6 10. I have been involved in every aspect of preparing and litigating this matter since
7 Leonard Carder joined Weinberg, Roger & Rosenfeld as co-counsel for the class in March 2021.

8 11. In *McLeod v. Bank of America*, N.D. Cal. Case No. 16-cv-03294-EMC, Dkt. 79, on
9 March 19, 2019, Judge Chen approved a fee award based in part on Mr. Kaufmann's hourly rate of
10 \$860, which was supported with an expert declaration. In 2016, Judge Chen in *Alexander* approved
11 fees based in part on hourly rates ranging from \$375 for less-experienced associates up to \$850 for
12 senior partners (including Mr. Kaufmann and myself) at Leonard Carder and senior paralegal rates
13 ranging from \$275 to \$295.

14 12. In *Carter v. XPO Last Mile*, N.D. Cal. Case No. 3:16-cv-01231-WHO, Dkt. 196,
15 Judge Orrick, in October 2019, awarded fees based in part on Mr. Kaufmann's hourly rate of \$870
16 an hour, which was supported with an expert declaration.

17 13. I frequently co-counsel wage and hour class actions with other San Francisco Bay
18 Area law firms that specialize in class and collective actions and in prosecuting wage and hour
19 claims for workers. I consult with them regularly as to the market rates they assert in fee petitions
20 and what awards they receive from courts. I believe the rates sought here for the attorneys and legal
21 assistants/paralegals who worked on this matter are comparable to my colleagues' rates for similarly
22 experienced talent.

23 **WORKED PERFORMED ON REVISED SETTLEMENT**

24 14. A summary of Class Counsel's work performed through the initial settlement and
25 preliminary approval in December 2022 is contained in the accompanying declaration of co-counsel
26 Jannah Manansala.

27 15. On January 12, 2023, Class Counsel filed an initial Motion for Attorney Fees and
28 Class Representative Awards. See Dkt. No. 181. The majority of work on this motion was

1 performed by my law partner Aaron Kaufmann, with assistance from associate attorney Kara
2 Gordon at Weinberg, Roger & Rosenfeld.

3 16. On February 19, 2023, settlement administrator CPT Group, Inc. distributed the class
4 settlement notice to approximately 291 class members. Following this distribution, my firm and co-
5 counsel were contacted by dozens Operators/Class Members who either (1) did not receive the
6 notice because their names did not appear on the class list that Defendant provided to the Settlement
7 Administrator, or (2) claimed the number of standby shifts reported in their notice and used to
8 calculate their settlement shares is woefully short.

9 17. Following a lengthy investigation on our investigation into these issues, Class
10 Counsel concluded that the class data (which included both names of Operators and the standby
11 shifts for which they were scheduled during the class period) that Shell shared with the settlement
12 administrator failed to include data from the Cracked Products division (one of the refinery facility's
13 larger units) and also some other Operators who met the class definition were also left off of the
14 class list that was used by the Settlement Administrator.

15 18. My co-counsel and I also concluded that a significant number of Class Members,
16 who received the class settlement notice, were not credited in their settlement notices with all of the
17 standby shifts for which they were scheduled during the class period.

18 19. My co-counsel and I initiated meet and confer efforts with Shell's starting in late
19 February 2023 to alert them to the above-described issues. Following initial discussions, Class
20 Counsel concluded that a revised class settlement notice should be distributed to all Class Members
21 stating revised settlement share calculations. Accordingly, we requested that the Court vacate both
22 (1) the hearing on the motion for final approval of class action settlement and motion for attorneys'
23 fees and class representatives' award, and (2) the deadline for the filing of the initial motion for
24 final approval.

25 20. My co-counsel and I then conducted an extensive investigation into the data issues
26 and missing class members, conclusion that the original \$3.2 million settlement was no longer
27 sufficient and initiating further negotiations and data gathering with Defendant.

28 21. On September 7, 2023, following extensive meet and confer, the parties attended a

1 fourth settlement conference with Magistrate Judge Spero and agreed to a revised settlement that
2 increased the settlement fund to \$3.6 million. Once the parties agreed to this higher settlement
3 amount, my co-counsel and I continued to work on preparation of the parties' long form settlement
4 agreement and subsequent class notice. In addition, we worked to sort through data and record
5 issues in anticipation of potential issues that may have been raised by Class Members upon mailing
6 of the subsequent class notice. We also worked with the settlement administrator in the
7 administration of the new settlement and distribution of the new class notice.

8 22. The revised class settlement notice is scheduled to be mailed to the class by January
9 29, 2024.

10 **ATTORNEYS' FEES AND COSTS**

11 23. Leonard Carder takes cases on a contingent fee basis. Because of this fee structure,
12 we rely on awards for attorneys' fees and costs in order to continue our work for the advancement
13 of workers' rights. Our firm has received no compensation for our time or expenses invested in this
14 case, and if we do not prevail, we will receive no compensation whatsoever, and will sustain a
15 significant financial loss. Although we have confidence in the claims we have advanced, there is
16 always a risk in every case taken on contingency that the case may ultimately prove to be
17 unsuccessful, whether because issues of law or fact are later decided adversely to the plaintiffs,
18 because the facts cannot be proven, because of a procedural issue, or for any other number of
19 reasons. Thus, Leonard Carder has prosecuted this litigation up to this point, and has been
20 completely at risk throughout the case that it would not ultimately receive any compensation, while
21 also expending out-of-pocket expenses. Because the firm devoted its time and resources to this
22 matter, as a small firm, it has forgone other legal work for which it most likely would have been
23 compensated. In the face of these obstacles, it is the possibility of recovering a substantial and fully
24 compensatory fee award at the conclusion of a successful case that creates the necessary incentive
25 for private attorneys to provide representation. That is why fee-shifting provisions were enacted, and
26 why it is an established and standard practice for attorneys who provide representation on a
27 contingent basis to be awarded compensation in an amount greater than the standard hourly rate for
28 pay-by-the-hour cases. Plaintiffs' counsel is not seeking a multiplier, but instead a fee amount below

1 its lodestar; though in my opinion the results here would warrant a multiplier.

2 24. The Leonard Carder attorneys and paralegal staff have kept track of hours spent on
3 this case using Timeslips Remote attorney billing software. All billers on this case enter and record
4 their own time as incurred, which contemporaneously records the time worked on this case. For
5 each task performed on this case, the biller accounts for his or her time in 1/10th of an hour (6-
6 minute) increments and includes a brief narrative description of the work performed.

7 25. The following is the summary lodestar report for the attorneys (with year of law
8 school graduation) at Leonard Carder that worked on this matter:

9

LEONARD CARDER, LLP LODESTAR SUMMARY			
	Hourly Rate	Total Hours	Total
Aaron D. Kaufmann (1990)	\$950	277.4	\$263,530
David Pogrel (1999)	\$860	161.9	\$139,234
Amanda Eaton (2021)	\$570	71.4	\$40,698
Total:			\$443,462

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15 Note that the hours reflected here capture time entries through December 31, 2023; class counsel
16 will continue to work on this matter through final approval and administration of the settlement.
17 In the exercise of billing judgment, I have also *not* included attorneys and paralegals who
18 documented less than 10 hours devoted to this matter. There are also countless brief telephone
19 calls with co-counsel, short e-mails, and brief inner-office meetings regarding this case that do not
20 get recorded in the billable hours for this matter. I anticipate spending several hours on the subject
21 motion and on the amended motion for final approval, along with many hours addressing class
22 member questions and concerns and disputes as to their settlement shares and other settlement
23 administration matters. Thus, the hours stated above do not reflect all time spent on this case.

24 26. I can provide detailed time records for the Court's *in camera* review upon request.
25 To provide further detail on how my firm's hours were spent on this matter, Aaron Kaufmann and
26 I worked with co-counsel from Weinberg, Roger & Rosenfeld to categorize the time entries
27 according to the following project-based tranches:

28 //

	Category of Work	Time Spent by LC
1.	Conducting case investigation, both factual and legal;	2.5
2.	Conducting discovery, including propounding written discovery, reviewing voluminous documents produced in discovery, engaging in discovery meet and confer efforts, and preparing a motion for sanctions related to discovery disputes;	4.6
3.	Preparing and taking/defending the deposition of Shell's supervisors, Shell's 30(b)(6) witness, and the named plaintiffs, Marco DiMercurio, John Langlitz, Malcolm Synigal, and Charles Gaeth;	0.7
4.	Preparing and arguing the motion for class certification and supplemental briefing, including interviewing class members and preparing class member declarations, preparing related administrative motions, preparing an opposition to Shell's 23(f) petition to appeal the granting of class certification, and coordinating the mailing of class notice;	92.1
5.	Preparing the Second Amended Complaint;	1
6.	Preparing the Third Amended Complaint and amended PAGA notice;	.8
7.	Preparing for three settlement conferences, including creating a damages model using documents produced in discovery, attending mediation, and engaging in post-mediation negotiations;	64.5
8.	Drafting and negotiating the original settlement agreement;	44.3
9.	Drafting the motion for preliminary approval and arguing the motion for preliminary approval;	85.6
10.	Drafting the initial motion for attorneys' fees (filed January 2023); and	31
11.	2023 hours renegotiating revised settlement, all associated tasks and amended preliminary approval and revised class notice.	126
12.	Case management and administrative tasks.	57.6
	Total:	510.7

27. A summary of the out-of-pocket expenses incurred by Leonard Carder through December 31, 2023 is as follows:

Expense Type	Amount
PACER	\$3.40
Westlaw	\$625.63
Photocopy/Printing	\$230.25
Mediation Related Costs	\$22.00
Total:	\$881.28

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct of my own personal knowledge, and that this Declaration was executed on January 24, 2024, at Oakland, California.

/s/ David Pogrel
David Pogrel

EXHIBIT 1

DAVID P. POGREL

▪ LEONARD CARDER, LLP ▪

▪ 1999 Harrison Street, Suite 2700 ▪ Oakland ▪ CA 94612 ▪

▪ (510) 272-0169 ▪ dpogrel@leonardcarder.com ▪

ADMITTED TO PRACTICE

- Admitted to California Bar, December 1999
- State Courts of California
- U.S. District Court (Northern and Central Districts of California)
- U.S. Court of Appeals for the Ninth Circuit
- California Supreme Court

EMPLOYMENT EXPERIENCE

Leonard Carder, LLP, Oakland, CA

Partner

March 2012 – Present

Representing workers in individual and class action employment litigation in state and federal courts, with particular emphasis on wage and hour class actions and individual wrongful termination claims. Handling all aspects of complex litigation, including case investigation and preparation, depositions and other discovery, law and motion work and other court appearances, client and class member interviews, settlement negotiations, trial preparation, and appeals.

Hinton Alfert Sumner & Kaufmann, Walnut Creek, CA

Principal

January 2009 – February 2012

Associate

February 2005 – December 2008

Responsible for all aspects of complex class action and individual employment litigation.

The Legal Aid Society - Employment Law Center, San Francisco, CA

Staff Attorney/Equal Justice Works Fellow

September 1999 - January 2005

Selected by Equal Justice Works (formerly NAPIL) and thereafter retained by the LAS-ELC to coordinate the Unemployment and Wage Claims Project and assist with supervision of the Workers' Rights Clinic. Duties included management of all aspects of individual wage and hour and unemployment insurance cases, training and supervision of volunteer law student advocates and law clerks on a myriad of employment issues, conducting intake interviews, outreach and public education, legal research and writing, and developing training and *pro se* materials. Claims Project assisted over 3200 clients, prevailed in over 85% of cases and secured over \$1,200,000 in judgments and settlements during my tenure. Also represented employees and assisted senior attorneys with litigation in state and federal courts and file *amicus curiae* briefs on behalf of low-wage workers.

Law Clerk (Disability Litigation and Direct Services Units)

January 1998 - May 1999

Conducted legal research, drafted pleadings, discovery and portions of an employment law manual.

Counseled clients at Workers' Rights Clinic and represented workers in administrative hearings.

East Bay Community Law Center, Berkeley, CA

Clinical Intern, HIV/AIDS Law Project

August 1997 - December 1997

Provided direct legal services to low-income, HIV-positive Alameda County residents. Conducted client intake, developed cases and prepared legal documents related to a variety of legal issues including disability benefits, General Assistance, estate documents, divorces, and landlord-tenant disputes.

Collective Legal Services, The Eviction Defense Center, Oakland, CA

Law Clerk

June 1997 - August 1997

Conducted client intake, prepared pleadings for eviction defense, propounded and answered discovery requests, negotiated with opposing counsel, provided telephone advice to low-income tenants.

EDUCATION

University of California, Berkeley School of Law (Boalt Hall), Berkeley, CA

J.D., May 1999

- **Berkeley Law Foundation**, Vice President 1997-99, Member 1996-97
- **East Bay Workers' Right Clinic**, Co-Director 1997-98, Counselor 1996-97
- **Student-Faculty Clinical Committee**, Student Member 1998-99
- **Berkeley Journal of Employment and Labor Law**, Member 1996-97

University of California, San Diego, La Jolla, CA

B.A., *cum laude*, June 1995

- Major in Economics, minor in Chemistry

University of Essex, Colchester, England, 1993-1994

TRAINING

Trial Advocacy Program, Mock Jury Trial

Heller, Ehrman, White and McAuliffe and the National Institute for Trial Advocacy (NITA), 2004

NITA Deposition Skills Workshop

AFFILIATIONS

California Employment Lawyers Association, Member

National Employment Lawyers Association, Member

The Legal Aid Society – Employment Law Center, Guest Lecturer and Volunteer Supervising Attorney

Fair Labor Standards Act, ABA, Contributing Editor

East Bay Community Law Center, Advisory Board Member

State Bar of California, Labor and Employment Section, Member

Berkeley Law Foundation Board of Directors, Honorary Director; former Board Co-President

EXHIBIT 2

AARON KAUFMANN
akaufmann@kgworklaw.com
1939 Harrison St., Suite 620
Oakland, CA 94612
(510) 817-4380 (work); (510) 847-1140 (cell)

Bar Admission California, No. 148580 (state, all U.S. Dist. Courts, 9th Cir.), 1990.

Education University of California at Berkeley (B.A. 1986); University of California College of the Law, San Francisco (J.D. cum laude 1990).

Employment History (Partial Listing)

Kaufmann & Gropman LLP, Oakland, CA, Partner 2024-present
Founding partner, representing workers in wage/hour class/collective actions and in individual wage and hour, discrimination, retaliation, and wrongful termination litigation.

Leonard Carder, LLP, Oakland, CA, Partner 2012-2023
Partner, represented workers in wage/hour class/collective actions and in individual wage and hour, discrimination, retaliation, and wrongful termination litigation; also advise union clients on wage and hour matters.

Hinton, Alfert, Sumner & Kaufmann, Walnut Creek, CA, Principal 2003-2012
As named principal, represented workers in wage and hour and expense reimbursement class and collective actions and in individual wage and hour, discrimination, retaliation, and wrongful termination litigation.

Goldstein, Demchak, Baller, Borgen & Dardarian, Oakland, Associate 1997-2003
Associate, represented workers in class action employment and other complex litigation, from pre-filing investigation through trial and appeal; tried and arbitrated several wage/hour cases; oversaw firm's intake and preliminary investigation process.

Breon, O'Donnell, Miller, Brown & Dannis, San Francisco, Associate 1996-1997
Associate, represented public schools in employment, special education, tort, constitutional, and tax and finance matters in trial and appellate courts; tried special education case.

Erickson, Beasley, Hewitt & Wilson, Oakland, Associate Feb. 1992-March 1995, Sept. 1995-April 1996
Represented public entities in trial and appellate courts in premises liability, employment, and land use litigation; represented workers in employment discrimination class actions.

Hon. Edward D. Price, U.S. District Court, E.D., Cal., Fresno, Jan. 1991-Jan 1992
Served as senior law clerk to federal district court judge.

Publications (Partial Listing) Co-Editor-in-Chief of the American Bar Association’s (ABA) Fair Labor Standards Act Treatise (“FLSA Treatise”), Third and Fourth Editions and Annual Supplements (2009 to present); Senior Editorial Board Member for Second Edition of FLSA Treatise and Annual Supplements; “Why the *Dynamex* Decision Is Important for Injured Workers,” *Workers’ Compensation Quarterly*, Vol. 32, No. 1, 2019; *Ayala v. Antelope Valley Newspapers, Inc.: Employee’s Perspective*,” *California Labor & Employment Law Review*, September 2014; “Experience Pays, but Interns May Have to Be Paid for Their Experience: When Interns are Covered by Wage and Hour Laws,” *California Labor & Employment Law Review*, November 2013; Forum (Consumer Attorneys of California Magazine), “The Changing Landscape of Wage & Hour Litigation” (July/August 2004); *The Verdict* (Alameda-Contra Costa Trial Lawyers’ Assoc. Magazine), “Private Enforcement of California’s Wage & Hour Laws” (Winter 2003-2004); *Employment Discrimination Law*, ABA, Chapter Editor (2005 Edition, 2002 Supplement); *California Labor & Employment Law Quarterly*, “Overtime Pay--Who’s Eligible, Who’s Not” (Winter 2000) and “Public Sector Employer’s Obligations to Prevent Hostile Work Environments without Violating Free Speech Rights” (Summer 1997); *California Employment Law Reporter*, “Sizing the Prize: Calculating Overtime Back pay for Salaried Employees” (March 1999).

Other Professional Activities Member of U.S. Dist. Court, N.D. Cal.’s Standing Committee on Professional Conduct (2020 to present); Co-Chair of the California Employment Lawyers’ Association (“CELA”), Amicus Committee (2019 to present) and Wage & Hour Committee (2014-18); Co-Chair of ABA, Federal Labor Standards Legislation Committee (2014-16); Co-Chair of ABA, Labor and Employment Section’s Fair Labor Standards Sub-Committee (2010-13); frequent guest lecturer/panelist on wage and hour law and employment class action litigation at U.C. Berkeley School of Law, Hastings College of the Law, University of Santa Clara Law School, the Labor and Employment Sections of the ABA and California State Bar, , CELA, California Applicant Attorneys Association, American Conference Institute, Bridgeport Continuing Legal Education, Lorman Group, and the National Employment Lawyers Association; chair/organizer of CELA’s Advanced Wage and Hour Seminar (2005-08); National Institute of Trial Advocates, former faculty member.

Board Work and Other Public Service Legal Aid at Work, and board of directors (2004-present) and executive committee (2009-2021); San Francisco Bar Association, Minority Law Student Scholarship Committee and mentor (2014-present); Wiener Holocaust Library, American Friends Committee, Secretary-Treasurer (2017-present).

Professional Acknowledgments College of Labor and Employment Lawyers, Fellow; “AV” Martindale-Hubbell Rating; Northern California “Super Lawyer” (2007-present).

Significant Cases (partial listing) Served as plaintiffs’ and class counsel in, among others: *Nguyen (Lockwood) v. Wells Fargo*, 771 Fed. App’x. 822 (9th Cir. 2019), N.D. Cal Case No. 15-cv-05239-JCS (class of home mortgage officers asserting claims for employment-related expenses and late wage payments and representative penalty claims); *Ormeno v. Pasha Automotive Services*, 444 F. Supp.3d 1129 (N.D. Cal. 2020) (represented cargo terminal workers on FLSA, local prevailing wage and representative penalty claims); *Valadez v. CSX Intermodal*

Terminals, Inc., N.D. Cal. Case No. 15-CV-05433-EDL & *Goyal v. CSX Intermodal Terminals, Inc.*, N.D. Cal. Case No. 17-CV-6081-EMC (approximately 85 drayage drivers asserting individual FLSA, state wage and hour, and representative penalty claims arising from independent contractor misclassification); *McLeod v. Bank of America*, N.D. Cal. Case No. 16-cv-03294-EMC (class of home mortgage officers asserting claims for employment-related expenses and late wage payments); *Bartoni v. AMR West*, 11 Cal. App.5th 1084 (2017), Alameda County Superior Court, Case No. RG08382130 (missed break claims for class of EMTs, paramedics, and dispatchers); *Soares v. Flowers Foods*, N.D. Cal. Case No. 5:15-cv-04918-JSC (multi-plaintiff bread distributors asserting wage and hour claims arising from independent contractor misclassification); *Ayala v. Antelope Valley Newspapers*, 59 Cal.4th 522 (2014) (argued on behalf of CELA as amicus on propriety of class treatment of independent contractor misclassification claims); *Samaniego v. Empire Today LLC*, 205 Cal. App.4th 1138 (2012) (class of carpet installers asserting state wage and hour claims arising from independent contractor misclassification); *Narayan v. EGL, Inc.*, 616 F.3d 895 (9th Cir. 2010) and related cases (resolving wage and hour claims for approximately 250 pick-up and delivery drivers misclassified as independent contractors); *Lopez v. P.W. Stephens Environmental, Inc.*, N.D. Cal. Case No. 3:15-cv-03579-JD (class of asbestos abatement workers asserting FLSA and state break and minimum wage violations); *Granados v. Alameda County Industries*, N.D. Cal. Case No. 3:14-cv-03011-JD (class of recycling workers asserting local living wage claims); *Alexander v. FedEx Ground Package System, Inc.*, 765 F.3d 981 (9th Cir. 2014), N.D. Cal. Case Nos. 12-17458, 12-17509 and related cases (classes of pickup and delivery drivers asserting claims arising out of independent contractor misclassification); *Kairy v. SuperShuttle*, N.D. Cal. Case No. 08-CV-02993-JSW (class of shuttle drivers' FLSA and state wage and hour claims arising from alleged independent contractor misclassification); *Hoemier v. Sun Microsystems, Inc.*, Santa Clara County Superior Court Case No. 106CV-071531(class of technical writers asserting and meal period compensation claims arising from exemption misclassification); \$5 million class action settlement for wage and hour violations arising from misclassification as independent contractors); *Watts v. Sysco Corp.*, Alameda County Superior Court, Case No. RG09464228 (Alameda County) (class of outside salespersons asserting claims for employment-related expenses); *Burdick v. U.S. Foodservice, Inc.*, Alameda County Superior Court, Case No. RG09434440 (class claims to reimburse outside salespersons for their out-of-pocket job-related expenditures); *Gundersen v. Lennar Homes*, N.D. Cal. Case No. CV-09-2270 CRB (overtime/meal period exemption misclassification claims for class of assistant construction managers).

EXHIBIT 3

Amanda C. Eaton

EDUCATION

University of California, Davis School of Law

Davis, CA
2021

J.D.

- Activities: UC Davis School of Law Unemployment Clinic & Wage Claim Clinic
- Excellence in Lawyering Process Award & Witkin Award for Implicit Bias and the Law

University of California, Davis

Davis, CA
2008

B.A. in Political Science with Honors and Minor in Classics

- Regents Scholar, Phi Beta Kappa Honors Society
- Political Science Department Citation of Excellence

EXPERIENCE

Leonard Carder, LLP

Oakland, CA

Associate

August 2021 – present

- Represent public sector labor unions in arbitration and in unfair practice charges before the Public Employment Relations Board.
- Represent individual clients in independent contractor misclassification arbitrations and lawsuits.
- Assist with wage and hour class action lawsuits.

Leonard Carder, LLP

Oakland, CA

Summer Law Clerk

May – July 2020

- Assisted with preparation for contract negotiations and filing a successful unfair labor practice charge with the NLRB.
- Drafted a motion and supporting documents for California Superior Court, letter to opposing counsel, and legal memos for litigation preparation in plaintiff side labor and employment cases.
- Researched per diem regulations, collective action certification, and attorney fees under the Fair Labor Standards Act.

Department of Fair Employment and Housing Clinical Externship

Davis, CA

Student Extern

Aug – Dec 2020

- Managed a hostile work environment claim filed with the DFEH.
 - Conducted five witness interviews and corresponded with opposing counsel.
 - Drafted and sent a subpoena to opposing party requesting further documents.
 - Reviewed documents and interviews to draft an Investigative Summary making recommendations to the Department.
- Conducted nearly fifty phone interviews with tenants as part of a fair housing class action lawsuit.

National Employment Law Project

Berkeley, CA

Legal Intern

June – Aug 2019

- Drafted section of an amicus brief filed with the NY Court of Appeals advocating for gig workers.
- Wrote a comprehensive report of California laws impacting privacy rights in the workplace.
- Assisted staff attorneys with research on joint employer and independent contractor cases.

BAR ADMISSION

Licensed to practice in California 2021.