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23 CHARLES GAETH, JOHN LANGLITZ and
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26 UNITED STATES DISTRICT COURT
27 NORTHERN DISTRICT OF CALIFORNIA
28 SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

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

Defendants.

No. 3:19-cv-04029-JSC

[ASSIGNED FOR ALL PURPOSES TO
DISTRICT JUDGE
JACQUELINE SCOTT CORLEY]

**DECLARATION OF JANNAH V.
MANANSALA IN SUPPORT OF
PLAINTIFFS' MOTION FOR
AWARD OF ATTORNEYS' FEES
AND EXPENSES AND CLASS
REPRESENTATIVE SERVICE
AWARDS**

Date: May 9, 2024

Time: 10:00 a.m.

Crtrm: 8 – 19th Floor

DJudge: Hon. Jacqueline Scott Corley

Complaint Filed: June 4, 2019

1stAmend.Complt Filed: October 25, 2019

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

1 I, Jannah V. Manansala, declare as follows:

2 1. I am an attorney at law, admitted to practice before this Court and in all the courts
3 of the State of California, and I am a shareholder with the law firm of Weinberg, Roger &
4 Rosenfeld (“WRR”), attorneys for Plaintiffs Marco DiMercurio, Charles Gaeth, John Langlitz
5 and Malcolm Synigal (“Plaintiffs”) in the above-referenced matter. I make this declaration based
6 upon my personal knowledge, and, if called as a witness, I could competently testify to the facts
7 hereinafter stated.

8 **I. WEINBERG, ROGER AND ROSENFELD’S PRACTICE**

9 2. WRR is based in Emeryville, California with offices in Sacramento, Los Angeles,
10 Las Vegas, and Honolulu. WRR is one of the largest union-side labor law firms in the country.
11 The firm primarily represents and counsels workers, unions, and employee benefit plans in
12 relation to all aspects of their legal needs. Our litigation practice includes all aspects of labor and
13 employment law.

14 3. A central part of WRR’s practice has been wage and hour class action litigation to
15 enforce the Labor Code and Industrial Wage Commission Wage Orders. Our firm has
16 successfully represented employees in numerous wage and hour lawsuits brought as class actions,
17 including, among others, the seminal *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575 (2000)
18 (holding that employees must be compensated for required time on employer-provided buses
19 under California law); *Cicairos v. Summit Logistics, Inc.*, 133 Cal. App. 4th 949 (2005) (holding
20 that employers have an affirmative duty to ensure that employees receive meal periods); *Bluford*
21 *v. Safeway Stores, Inc.*, 216 Cal. App. 4th 864 (2013) (holding that a piece-rate compensation
22 formula that does not compensate separately for rest periods does not comply with California
23 minimum wage law); *Godfrey v. Oakland Port Services Corp.*, 230 Cal. App. 4th 1267 (2014)
24 (holding that an employer may not deduct time from hours worked for meal periods owed but not
25 taken); *Lubin v. The Wackenhut Corp.*, 5 Cal. App. 5th 926 (2016) (requiring off duty meal
26 periods for security guards); *Marquez v. City of Long Beach*, 32 Cal. App. 5th (2019) (holding
27 that minimum wage provisions of the Labor Code and the Industrial Welfare Commission (IWC)
28 wage orders apply to public employees of charter cities); *ABM Industries Overtime Cases*, 19 Cal.

1 App. 5th 277 (2017) (holding that database analysis of timekeeping and payroll records may be
2 used as a means to show common practices for purposes of class certification and that a
3 potentially over inclusive class definition does not preclude certification but goes to class
4 members' recovery); *OTO, L.L.C. v. Kho*, 8 Cal. 5th 111 (2019) (holding that an employment-
5 related arbitration agreement was unconscionable and unenforceable under Code Civ. Proc., §
6 1281 due in part to extraordinarily high procedural unconscionability resulting from its
7 complexity and presentation for immediate signing without explanation); *Bartoni v. AMR West*,
8 Alameda County Superior Court, Case No. RG08382130 (class counsel for EMTs, paramedics,
9 and dispatchers' rest period claims, including PAGA penalties); and *SEIU-USWW et al. v.*
10 *Preferred Building Services Inc.*, 70 Cal. App. 5th 403 (2021) (affirming grant of summary
11 judgment to plaintiffs against employer that failed to retain its janitorial workforce in violation of
12 the Displaced Janitor Opportunity Act and the Displaced Worker Protection Act).

13 4. The firm has successfully prosecuted additional class actions that did not result in
14 published decisions, including, but not limited to *Barragan et al. v. Pacific Gas and Electric*
15 *Company*, Alameda Superior Court No. RG17853920 (wage and hour); *Del Castillo, et al. v.*
16 *Community Child Care Counsel of Santa Clara Co.*, U.S.D.C. Northern Dist. No. 5:17-cv-07243-
17 BLF (ERISA); and *Off Track Wagering Wage and Hour Cases*, Alameda Superior Court No.
18 JCCP 005016 (wage and hour).

19 5. The firm also represents other Operators in wage and hour lawsuits for reporting
20 time pay brought as class actions, including, among others, *DiMercurio v. Martinez Refining*
21 *Company, LLC*, (Contra Costa County) No. MSC20-01257, *Bradford v. Chevron USA, Inc.*
22 (Contra Costa County) No. MSC19-0115, and *Wood v. Marathon* (N.D. Cal. June 14, 2022) No.
23 19-CV-04287-YGR.

24 6. A resume detailing some of the firm's extensive experience with wage and hour
25 class actions and other complex litigation is attached hereto as **Exhibit A**.

26 7. Our firm has devoted and is willing and able to continue to devote substantial
27 resources to this matter and will vigorously represent the class. We have litigated this case
28 actively since 2019.

1 **II. PROFESSIONAL EXPERIENCE**

2 8. In addition to the achievements listed above, I am a shareholder with the firm and
3 was admitted to the California Bar in 2007. My practice includes the representation of unions,
4 their members and working people in both state and federal court, as well as in administrative
5 proceedings. During my more than 16 years with the firm, I have worked extensively on
6 numerous wage and hour class actions. I have participated substantially in wage and hour class
7 actions where I have been appointed as class counsel in the Superior Courts for the Counties of
8 Alameda County, Los Angeles County, San Joaquin County, and San Francisco County and in
9 the federal district court for the Northern District of California. I have also pursued innovative
10 class action claims based on violations of living wage ordinances and the Displaced Janitors
11 Opportunity Act, including in *Preferred Building Services Inc.*, which resulted in summary
12 judgment in favor of my clients, as mentioned above. I was also among the attorneys who
13 actively litigated the *Cicairos*, *Bartoni*, *Bluford*, and *Barragan* cases mentioned above. I am class
14 counsel in the *Wood*, *DiMercurio*, and *Bradford* cases mentioned above. In addition to practicing
15 law, I regularly teach a seminar covering various labor and employment law topics at the
16 University of California, Berkeley School of Law.

17 9. Caitlin Gray is a shareholder at the firm. She graduated cum laude from New
18 York University School of Law in 2015 and was awarded the Sol D. Kapelsohn Prize for writing
19 in the field of labor law at graduation. Since joining WRR in 2015, she has litigated in state and
20 federal court on numerous labor and employment matters. She had primary responsibility for
21 briefing and arguing the motions for summary adjudication of the meal period claims and
22 preparing the opposition to the motion for decertification in the *ABM* matter referenced above
23 (wage and hour class action on behalf of class of 50,000 janitors subjected to automatic deduction
24 of time for meal periods). She was also actively involved in *Preferred Building Services Inc.* She
25 recently obtained final approval in *Del Castillo, et al. v. Community Child Care Counsel of Santa*
26 *Clara Co.*, U.S.D.C. Northern Dist. No. 5:17-cv-07243-BLF, a class action involving ERISA
27 violations where she served as lead counsel. She is class counsel in the *Wood*, *DiMercurio*, and
28 *Bradford* cases mentioned above.

1 10. Roberta Perkins has been with WRR since 1997 and is of counsel. Ms. Perkins
2 was admitted to the California Bar in 1991 and joined WRR in 1997. Prior to joining the firm,
3 she worked at two small firms handling Plaintiff personal injury and product liability litigation.
4 Ms. Perkins was among the attorneys working on the *Morillion*, *Cicairos*, and *Bluford* cases
5 previously mentioned. She was part of the litigation team on the *Lubin* case and recently obtained
6 final approval in the *Del Castillo, et al. v. Community Child Care Counsel of Santa Clara Co.*,
7 U.S.D.C. Northern Dist. No. 5:17-cv-07243-BLF (ERISA class action). She is also working on
8 the matter of *Wheeler, et al. v. Safeway, Inc.*, San Joaquin Superior Court No. 3:19-cv-04029-JSC
9 (wage and hour class action). In addition, Ms. Perkins has been approved as class counsel in
10 *Perez, et al. v. Millennium Reinforcing Inc.*, Orange Co. Superior Court No. 30-2012 00583465;
11 *Quintero, et al. v. KCB Towers, Inc.*, San Bernardino Co. Superior Court No. SCVSS144871; and
12 *Proctor, et al. v. Auto Car, Inc.*, Sacramento Co. Superior Court No. 34-2013-00154012, all of
13 which have been successfully resolved. Ms. Perkins has also handled litigation on behalf of
14 unions, workers and trust funds, as well as providing institutional advice to clients.

15 11. Alan Crowley is a shareholder at the firm. He received his undergraduate degree
16 from University of California, Berkeley and law degree from U.C. Hastings. Since 1990, he has
17 represented unions in all aspects of labor and employment law, as well as provided institutional
18 advice to unions. His practice has afforded him with extensive litigation experience, including
19 cases arising out of anti-discrimination laws, duty of fair representation, and wage and hour
20 matters. His experience includes administrative, federal, and state trial court practice, as well as
21 advocacy before the state and federal appellate courts. He directly handles and oversees complex
22 litigation, collective bargaining negotiations, organizing drives, arbitrations, political activity,
23 class actions, internal union governance, and legislative drafting. He is an active trial and
24 appellate lawyer, with notable cases concerning the constitutional and statutory rights of public
25 and private sector employees, including, *County of Los Angeles v. Los Angeles County Employee*
26 *Relations Commission, SEIU Local 721 Real Party in Interest* (2013) 56 Cal. 4th 905.

27 12. Alexander S. Nazarov is a shareholder at the firm. He was admitted to the
28 California Bar in 2015. Since October 2017, his practice includes litigating wage and hour class

1 actions and discrimination cases. He also performs appellate work, including work regarding
2 constitutional questions in labor law. He has been appointed class counsel in *Barragan et al. v.*
3 *Pacific Gas and Electric Company*, Alameda Superior Court Case Number RG17853920; and
4 *Preferred Building Services Inc.* He is class counsel in the *Wood*, *DiMercurio*, and *Bradford*
5 cases mentioned above.

6 13. Maximillian D. Casillas has been an associate at the firm since March 15, 2021.
7 He was admitted to the California State Bar in 2016. After graduating from Loyola Law School,
8 Los Angeles, he worked as a civil litigation attorney at Ellis Law Corporation where he
9 predominantly represented personal injury plaintiffs. After Ellis Law Corporation, Mr. Casillas
10 worked as a civil litigation attorney at the law offices of Lurie, Zepeda, Schmalz, Hogan &
11 Martin representing clients in business litigation and probate matters.

12 14. Kara L. Gordon worked as an associate at WRR from May 2020 until March 2023.
13 They graduated from the University of California, Berkeley School of Law. They were admitted
14 to the California State Bar in January 2021. Their practice included litigating wage and hour
15 class actions, ERISA, and discrimination cases. They were previously appointed class counsel in
16 the *Wood* and *DiMercurio* cases mentioned above and also actively litigating the *Bradford* class
17 action.

18 15. Andrew Weaver worked as an associate at WRR from 2020 until 2021. During his
19 time at WRR, Mr. Weaver was actively involved in multiple class action cases in the office
20 including this case. Prior to joining WRR, Mr. Weaver worked in a small firm handling class
21 action litigation.

22 16. Winnie G. Vien has been an associate at the firm since September 2022. She
23 graduated from the New York University School of Law as a Root-Tilden-Kern Public Interest
24 Scholar in May 2022. She was admitted to the California State Bar in November 2022. Since
25 joining the firm, her practice has included litigating wage and hour class actions in both state and
26 federal court. She has also been appointed class counsel in the *Wood*, *DiMercurio*, and *Bradford*
27 cases mentioned above.

28 17. Paralegal Aaron Nathan was instrumental in handling the multitude of document

1 productions and maintaining WRR's database regarding this case. Mr. Nathan was actively
2 involved in docketing deadlines in this matter and was involved to some degree in the filings in
3 this matter, including gathering and organizing exhibits, double checking exhibit references, and
4 assisting with finalizing and filing of the documents. Mr. Nathan was frequently asked by
5 attorneys to search for specific documents needed for review, motions, or depositions.

6 **III. WORK DONE IN THIS LITIGATION**

7 18. I have personally participated in all aspects of this litigation, including
8 participating in the initial investigation, preparing the complaint and amended complaints,
9 preparing the opposition briefs for Defendants' motions to dismiss the First Amended Complaint,
10 discovery, preparing the briefs for Plaintiffs' motion for class certification, preparing the
11 mediation materials (including the damages analysis), attending the mediation, and participating
12 in the settlement conferences.

13 19. Class Counsel made every effort to litigate this action in an efficient and cost
14 effective manner by reducing duplication of effort and maintaining a shared case file between the
15 firms.

16 20. The specific work performed by my firm and co-counsel in prosecuting this action
17 has included the following categories of work:

- 18 a. Conducting pre-filing investigations, both factual and legal;
- 19 b. Drafting the initial complaint and PAGA notice;
- 20 c. Conducting informal investigations, including interviewing class members;
- 21 d. Preparing the First Amended Complaint;
- 22 e. Preparing and arguing an opposition to the Shell's Removal to Federal
23 Court and Shell's Motion to Dismiss the First Amended Complaint;
- 24 f. Propounding written discovery, including requests for production of
25 documents, interrogatories and third-party subpoenas for documents,
26 reviewing voluminous documents produced in discovery, and engaging in
27 extensive discovery meet and confer efforts;

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- g. Preparing and taking the depositions of Shell’s Federal Rule of Civil Procedure 30(b)(6) witness and three refinery supervisors;
- h. Preparing and defending the depositions of the named plaintiffs, Marco DiMercurio, John Langlitz, Malcolm Synigal, and Charles Gaeth;
- i. Preparing and arguing the motion for class certification, including preparing the initial briefing and two supplemental briefs, interviewing class members and preparing class member declarations, and preparing related administrative motions;
- j. Preparing an opposition to Shell’s 23(f) petition to appeal the granting of class certification;
- k. Preparing and coordinating the mailing of the class notice;
- l. Preparing the Second Amended Complaint;
- m. Preparing the amended PAGA notice and Third Amended Complaint;
- n. Preparing for settlement conferences, including creating a damages model using documents produced in discovery, attending mediation, and engaging in post-mediation negotiations;
- o. Drafting and negotiating the first settlement agreement,
- p. Preparing the motion for preliminary approval and arguing the motion for preliminary approval;
- q. Monitoring and assisting with settlement administration;
- r. Communicating with class representatives and class members regarding case status;
- s. Sorting through issues related to class list and class member data for settlement payout prior to subsequent settlement conference;
- t. Preparing for and appearing at case management conferences and preparing case management statements;
- u. Preparing for and appearing at a subsequent settlement conference and preparing a settlement conference statement;

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- v. Sorting through issues related to class member data subsequent to the parties' agreement to a higher settlement amount;
- w. Addressing issues related to and preparing a second long form settlement agreement;
- x. Preparing the second preliminary approval motion and class notice;
- y. Addressing issues related to processing of the new settlement; and
- z. Preparing the motion for attorneys' fees.

21. In Spring 2019, I began investigating concerns over whether operators were being adequately compensated for working mandatory standby shifts at Shell's Martinez Refinery. I reviewed the relevant collective bargaining agreements, interviewed several workers from the Shell refinery site, including, in part, multiple interviews with the named plaintiffs Marco DiMercurio, John Langlitz, Charles Gaeth, and Malcolm Synigal, and held other related meetings. I also reviewed public information about Shell's operations at the Martinez refinery. At the same time, I and other attorneys at my firm invested significant resources to research the viability of claims against Shell, including the application of a new legal theory asserting reporting time claims, the likelihood of success in defeating a motion for summary judgment by Shell, and the ability to seek penalties for violation of the Wage Order through the Private Attorney General Act.

22. Between May and June 2019, my firm drafted the initial complaint and PAGA letter describing the facts of the case to the Labor Workforce Development Agency and to the Defendants. On June 4, 2019, Plaintiffs filed this action in state court, asserting claims for failure to pay reporting time pay in violation of Industrial Welfare Commission ("IWC") Wage Order 1-2001 ("Wage Order") and derivative claims. Dkt. No. 1.

23. Plaintiffs subsequently filed the operative First Amended Complaint in October 2019, asserting their previous claims and adding a claim under California's Private Attorneys General Act ("PAGA"), Labor Code section 2698. Dkt. No. 18.

24. Shell filed a motion to dismiss Plaintiffs' First Amended Complaint on November 8, 2019 on the grounds that Section 301 of the Federal Labor Management Relations

1 Act, 29 U.S.C. 185(a), preempted Plaintiffs' claims and Plaintiffs failed to state a claim for relief.
2 Dkt. No. 19. My firm drafted an opposition to the motion to dismiss in November 2019 and
3 prepared for oral argument in January 2020. Dkt. No. 20. On January 15, 2020, the Court denied
4 Shell's motion. Dkt. No. 26.

5 25. Throughout the case, the parties have completed extensive discovery. Plaintiffs
6 propounded at least 26 requests for production, 90 interrogatories, and 34 requests for admission.
7 In response to Plaintiffs' discovery requests, and after numerous discovery disputes, Shell
8 ultimately produced almost 1,000 pages of documents, which were then carefully reviewed by me
9 and other attorneys. To obtain these documents, we engaged in substantial meet and confer
10 efforts with Shell, including sending multiple, lengthy meet and confer letters, preparing for and
11 attending discovery conferences with the Court, and filing a motion for sanctions. *See* Dkt. Nos.
12 40, 49, 50, 60, 64, 65, 67, 73, 79. We also encountered difficulties in scheduling the depositions
13 of Shell's Federal Rule of Civil Procedure 30(b)(6) witness and refinery supervisors, eventually
14 requiring court intervention. Dkt. Nos. 73, 79. Shell also propounded their share of written
15 discovery to each of the plaintiffs, totaling approximately 152 production requests and 80
16 interrogatories.

17 26. In March 2021, my firm deposed Shell's corporate designee and three Shell
18 supervisory and management personnel. We also defended the depositions of the four named
19 Plaintiffs.

20 27. In March 2021, my firm brought in Leonard Carder to help prosecute this matter.

21 28. From fall 2020 to April 2021, attorneys at my firm engaged in significant outreach
22 to potential class members to garner additional information to support the motion for class
23 certification. We spoke with approximately 30 class members. After conducting these
24 interviews, we prepared 20 detailed, individualized declarations supporting the asserted claims.
25 Given the detailed and lengthy nature of these declarations and the varying declarants involved,
26 careful review and revision of these declarations in support of class certification required
27 substantial work. We then prepared Plaintiffs' Motion for Class Certification and filed that
28 motion with the Court in April 2021. Dkt. No. 90. At the Court's request, we also submitted two

1 supplemental briefs regarding class certification in September 2021 and January 2022. Dkt.
2 Nos. 123, 141. In September 2021, Shell petitioned for Rule 23(f) appellate review of this
3 Court's order regarding class certification. *DiMercurio v. Equilon Enterprises LLC*, Ninth Circuit
4 Case No. 21-80098, ECF No. 1. On September 23, 2021, Plaintiffs filed their opposition. *Id.*,
5 Dkt. No. 2. On December 10, 2021, the Ninth Circuit denied Shell's petition. *Id.*, Dkt. No. 3.

6 29. In September 2021, Plaintiffs filed their Second Amended Complaint, clarifying
7 the waiting time penalty subclasses. Dkt. No. 122.

8 30. In January 2021, we prepared an amended PAGA notice, clarifying the basis of
9 Plaintiffs' PAGA claims. Subsequently, in April 2022, Plaintiffs filed their Third Amended
10 Complaint, clarifying the basis of their PAGA claims. Dkt. No. 157.

11 31. Since January 2020, we attempted to coordinate and prepared extensively for
12 private mediation, as ordered by the Court. In March 2021, after failed attempts to proceed with
13 private mediation, the Court ordered the parties to attend a mandatory settlement conference with
14 Magistrate Judge Joseph Spero. The parties held three settlement conferences with Judge Spero
15 on May 26, 2021, November 30, 2021, and June 14, 2022. Dkt Nos. 98, 133, 161. All four
16 Plaintiffs attended all three settlement conferences.

17 32. Prior to the first settlement conference, Shell provided Plaintiffs with a large
18 volume of damages data regarding the hours worked by the putative Class Members, from which
19 Class Counsel built a damages model (including determining number of days worked, hours each
20 day worked, number of pay periods worked, days with multiple standby shifts, etc.). We also
21 drafted a detailed settlement conference statement for the initial conference and supplemental
22 statements for the second and third conference and prepared each of the Plaintiffs for each of the
23 conferences. After the June 14, 2022 conference, the parties accepted Chief Magistrate Judge
24 Spero's proposal to settle the case.

25 33. The parties engaged in further efforts to prepare a written settlement agreement,
26 which was primarily drafted by Class Counsel. The parties finalized that agreement on
27 September 8, 2022 after continued negotiations over several provisions in the agreement.
28 Dkt. No. 172.

1 34. On August 30, 2022, Plaintiffs filed a motion for preliminary approval of the class
2 action settlement and conditional class certification. Dkt. No. 171. The motion was heard on
3 October 20, 2022, at which time the Court required the parties to meet and confer regarding the
4 class notice and submit an amended notice. Dkt. No. 177. The parties were subsequently
5 required to submit a second amended notice. Dkt. Nos. 179, 180.

6 35. On December 14, 2022, the Court granted preliminary approval of the class action
7 settlement. Dkt. No. 181.

8 36. Subsequent to the Court's order granting preliminary approval and the mailing of
9 the original class notice, Class Members contacted Class Counsel and raised issues with the
10 accuracy of the class list and standby shift data provided by Shell to the claims administrator.
11 Class Counsel worked for several months to sort through these issues and met and conferred
12 extensively with Shell regarding the accuracy of data that Shell provided and the availability of
13 other additional data. Class Counsel's investigation regarding the accuracy of Shell's relevant
14 records included extensive review and analysis of relevant records and numerous communications
15 with Plaintiffs, Class Members, and Class Members' union. As reflected above, the bulk of this
16 work by WRR was performed by Winnie Vien who worked closely with Aaron Kaufman of
17 Leonard Carder.

18 37. Following such investigation, meet and confer efforts, and a further settlement
19 conference, the parties agreed to a different, higher settlement amount than the settlement amount
20 originally entered into by the parties.

21 38. Once the parties agreed to a higher settlement amount, Class Counsel continued to
22 work on preparation of the parties' long form settlement agreement and subsequent class notice.
23 In addition, Class Counsel worked to sort through data and record issues in anticipation of
24 potential issues that may have been raised by Class Members upon mailing of the subsequent
25 class notice. Class Counsel also worked with the claims administrator in its administration of the
26 new settlement and distribution of the new class notice.

27 39. WRR's clients, Mr. DiMercurio, Mr. Langlitz, Mr. Gaeth, and Mr. Synigal, were
28 actively involved in this case. They provided critical information about their experiences while

1 employed by Shell and information about Shell’s practices at the outset of this case. Throughout
2 the litigation, Mr. DiMercurio, Mr. Langlitz, Mr. Gaeth, and Mr. Synigal asked for periodic
3 updates on the case status, and remained available and was responsive to our calls and inquiries.
4 Mr. DiMercurio, Mr. Langlitz, Mr. Gaeth, and Mr. Synigal understood responded to multiple sets
5 of document requests and interrogatories propounded by Shell, and sat for deposition in March
6 2021. Mr. DiMercurio, Mr. Langlitz, Mr. Gaeth, and Mr. Synigal also attended all three
7 settlement conferences with Judge Spero.

8 **IV. WEINBERG, ROGER AND ROSENFELD’S LODESTAR AND EXPENSES**

9 40. WRR establishes hourly rates for its attorneys and paralegal staff, based on the
10 prevailing rates charged by San Francisco Bay Area practitioners. These hourly rates take into
11 account the billing rate charged by for-profit San Francisco Bay Area law firms and are
12 comparable to ones used for awards in prior cases.

13 41. Every new case that comes into the firm is assigned a matter number and all
14 attorneys and paralegals working on a matter are required to enter the time spent and a description
15 of the work performed into the billing program, ProLaw, under the assigned matter number. This
16 case was no different. I have reviewed the billing statements maintained by the firm for this case.
17 Over the life of this case through December 31, 2023, 10 professionals from WRR logged a total
18 of approximately 3068.9 hours for work on this case. Additional time will be incurred in
19 preparing the motion for final approval and ensuring the settlement is administered appropriately.

20 42. The legal services provided in this case reflect a high level of experience and skill.
21 The case involved sophisticated legal issues regarding reporting time pay, waiting time penalties,
22 wage statement penalties, a “voluntarily worked” defense, and the sufficiency of PAGA notices to
23 the LWDA. Many of the legal issues had limited authority, which impacted Plaintiffs’ theories
24 and analysis of their claims. Both firms and all of the attorneys working on this matter are highly
25 skilled and experienced in wage and hour class actions.

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1 43. The following is the summary lodestar report for the attorneys (with year of law
2 school graduation) and legal assistants at WRR that worked on this matter:

WEINBERG, ROGER, AND ROSENFELD LODESTAR SUMMARY			
	Hourly Rate	Total Hours	Total
Jannah Manansala (2006)	\$625	562.4	\$351,500.00
Alan Crowley (1999)	\$675	37	\$24,975.00
Roberta Perkins (1990)	\$750	57.6	\$43,200.00
Caitlin Gray (2015)	\$485	98.2	\$47,627.00
Alexander Nazarov (2014)	\$445	933.1	\$415,229.50
Maximillian Casillas (2016)	\$415	77.9	\$32,328.50
Andrew Weaver (2017)	\$400	140.9	\$56,360.00
Kara Gordon (2020)	\$345	951.1	\$328,129.50
Winnie Vien (2022)	\$345	119.3	\$41,158.50
Aaron Nathan (senior paralegal)	\$275	91.4	\$25,135.00
TOTAL		3068.9	\$1,365,643.00

3 44. Note that the hours reflected here capture time entries through December 31, 2023;
4 Class Counsel will continue to work on this matter through final approval and administration of
5 the settlement. In the exercise of billing judgment, I also have *not* included attorneys and
6 paralegals who documented less than 20 hours devoted to this matter. I also eliminated all law
7 clerk work on the matter. Those law clerks helped substantially with the class member
8 communications and legal research in this case. These hours also do not account for my many
9 hours involving my firm's initial intake of the matter including our initial interviews of workers
10 regarding facts relevant to the case and our initial research analysis regarding the legal strengths
11 of our case when doing intake of this matter. There are also countless brief telephone calls with
12 co-counsel, short e-mails, and brief inner-office meetings regarding this case that do not get
13 recorded in the billable hours for this matter. I anticipate spending several hours on the subject
14 motion and on the amended motion for final approval, along with many hours addressing class
15 member questions and concerns and disputes as to their settlement shares and other settlement
16 administration matters. Thus, the hours stated above do not reflect all time spent on this case.

17 45. I can provide the detailed time records for the Court's *in camera* review upon
18 request. To provide further detail on how my firm's hours were spent on this matter, I worked
19 with staff to categorize the time entries according to the following project-based tranches:
20
21
22
23
24
25

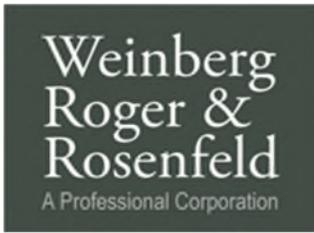
	Category of Work	Time Spent by WRR
1	Conducting case investigation, both factual and legal;	38.10
2	Drafting the initial complaint and PAGA notice;	13.30
3	Conducting informal investigations;	80.60
4	Preparing the First Amended Complaint;	7.50
5	Preparing and arguing an opposition to Shell's Removal to Federal Court and Shell's motion to dismiss the First Amended Complaint, and related administrative motions;	145.90
6	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;	421.10
7	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;	270.20
8	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;	1185.70
9	Preparing the Second Amended Complaint;	13.50
10	Preparing the Third Amended Complaint and amended PAGA notice;	8.00
11	Preparing for three settlement conferences, including creating a damages model using documents produced in discovery, attending mediation, and engaging in post-mediation negotiations;	268.60
12	Drafting and negotiating the original settlement agreement;	54.10
13	Drafting the motion for preliminary approval and arguing the motion for preliminary approval;	11.30
14	Drafting the motion for attorneys' fees;	156.50
15	Case management and administrative tasks;	176.10
16	Communicating with class representatives and class members regarding case status;	23.90
17	Sorting through issues relating to class list and class member data for settlement payout prior to subsequent settlement conference in 2023;	107.40
18	Preparing for and appearing at CMCs and preparing CMC statements after issues raised regarding class list and class member data;	2.70

	Category of Work	Time Spent by WRR
19	Preparing for and appearing at subsequent settlement conference and preparing settlement conference statement for the same;	34.40
20	Sorting through issues relating to class member data subsequent to parties' agreement to higher settlement amount;	34.20
21	Addressing issues relating to and preparing second long form settlement agreement;	7.90
22	Working on second preliminary approval motion and class notice and following up on issues relating to same;	1.50
23	Addressing issues relating to processing of new settlement.	6.40
	Total:	3068.9

46. The efforts of Class Counsel were not duplicative and were necessary to achieve a substantial benefit to the Class Members. All of the work performed by Class Counsel added value to the case and was reasonably necessary to give Plaintiffs and the Class Members the best possible chance for a favorable outcome. Class Counsel staffed and managed the litigation as efficiently as possible, recognizing the opposition faced over the 3 years of litigation from the team of lawyers at Lafayette & Kumagai LLP.

47. Given the intensity with which this case was litigated by the parties, there were times when this case demanded and received 100% of the working attorneys' and paralegals' time. For example, the class certification motion and the supplemental briefing demanded an enormous amount of attorney and paralegal time, as did responding to Shell's motion to dismiss Plaintiffs' First Amended Complaint. The motion for class certification and supplemental briefings filed by Plaintiffs required a significant time commitment over the course of several months, as did preparing for and attending settlement conferences with Judge Spero. The concentrated and demanding work on this case not only prevented me from taking on new cases, but it also seriously impacted my ability to work on the other cases for which I was and am responsible, and the client representation matters I routinely handle. Preparing for and taking depositions, and preparing filings required my firm's attorneys to frequently clear their calendars and required late night and weekend work.

EXHIBIT A



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Firm Background and Qualifications

Weinberg, Roger & Rosenfeld is one of the country's largest law firms representing workers, unions, and employee benefit plans, and handles many class actions and other complex matters regularly. Weinberg, Roger & Rosenfeld currently employs over 40 attorneys with offices in Emeryville, Sacramento, Las Vegas, Los Angeles, and Honolulu.

Weinberg, Roger & Rosenfeld is currently prosecuting many class actions alleging wage and hour violations. Enforcement of Labor Code and Wage Order provisions has been central to the practice of the firm for many years. Partial lists of the firm's wage and hour cases as well as other employment-related litigation appear below.

Selected California Wage and Hour Cases

- 1) *Wood v. Marathon* (N.D. Cal. June 14, 2022 and August 25, 2022) No. 19-CV-04287-YGR, dkt. 109, 120 [certifying two classes of refinery workers bringing claims for failure to pay reporting time pay under Wage Order 1-2001].
- 2) *DiMercurio v. Equilon* (N.D. Cal. Jan. 15, 2020) No. 19-CV-04029-JSC, 2020 WL 227262, at *6 [certifying a class of refinery workers bringing claims for failure to pay reporting time pay under Wage Order 1-2001].
- 3) *Marquez v. City of Long Beach* (2019) 32 Cal.App.5th [holding that minimum wage provisions of the Labor Code and the Industrial Welfare Commission (IWC) wage orders apply to public employees of charter cities].
- 4) *ABM Industries Overtime Litigation* (2017) 19 Cal. App. 5th 277 [class certified: defining proposed subclasses by reference to alleged wage and hour violations did not defeat ascertainability and need for individualized damage inquiries in the context of the employer's uniform policies and practices did not defeat predominance].
- 5) *Lubin v. The Wackenhut Corporation* (2016) 5 Cal. App. 5th 926 [employer providing security services could not satisfy its duty under California labor laws to provide security guard employees with off-duty meal breaks by allowing client preference to dictate whether meal periods were on-duty or off-duty].
- 6) *Godfrey et al. v. Oakland Port Services d/b/a AB Trucking* (2014) 230 Cal.App.4th 1267 [California meal and rest break law is not preempted by the Federal Aviation Administration Authorization Act of 1994 (FAAAA)].

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Admitted in California, unless
otherwise noted
Admitted in Hawaii
Also admitted in Nevada
Also admitted in Illinois
Also admitted in New York and
Alaska
Also admitted in Minnesota
Admitted in Nevada and
Washington
Also admitted in Idaho



- 7) *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864 [employers must provide separate compensation for rest periods to employees covered by piece rate compensation systems].
- 8) *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094 [Amicus—payments under Lab. Code § 226.7 [compensation for failure to provide meal, rest, or recovery periods is wages and not penalties—therefore three-year statute of limitations applies].
- 9) *Cicairos v. Summit Logistics, Inc.* (2005) 133 Cal.App.4th 949 [employer violated wage order by failing to give employees adequate itemized wage statements; employers have an affirmative obligation to ensure that workers are relieved of all duty for meal periods; federal “motor carrier exemption” does not apply to claims that employer failed to provide adequate itemized wage statements and did not ensure that drivers received rest breaks and duty-free meal periods; and employees were not required to arbitrate alleged violations of such California minimum labor standards].
- 10) *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575 [under California law employees must be compensated for time spent on employer-provided buses].
- 11) *Perez, et al. v. Millenium Reinforcing, Inc.*, Case No. 30-2012-0058346530-2012-00583465, Orange County Superior Court [classes certified].
- 12) *Off Track Wagering Wage and Hour Cases*, Alameda Superior Court No. JCCP 005016 (wage and hour).
- 13) *Barragan et al. v. Pacific Gas and Electric Company*, Alameda Superior Court No. RG17853920 (wage and hour).
- 14) *Gallegos v. Edgren Motors Co., Inc.*, Alameda County Superior Court No. RG17886827 (mechanic wage and hour).
- 15) *Knox v. AN Imports of Stevens Creek, Inc.*, Santa Clara Superior Court No. 17CV316379 (mechanic wage and hour).
- 16) *Bartoni v. American Medical Response*, Case No. RG08382130, Alameda County Superior Court [settlement in favor of class].
- 17) *Maresca v. Wackenhut Services, Inc.*, Case No. BC373415, Los Angeles Superior Court [settlement in favor of class].
- 18) *Gutierrez Lopez v. Burdick Painting*, Case No. 110CV184929, Santa Clara County Superior Court [class certified for unpaid overtime and other wage and hour violations].
- 19) *Cisneros et al. v. Garcia Concrete*, Case No. RG09457638, Alameda County Superior Court (2011 WL 9379245) [class certified; judgment in favor of class].
- 20) *Navarro et al. v. Yeager Tile Co.*, Case No. 34-2009-00053779, Sacramento County Superior Court Case [class certified].

- 21) *Cubias v. Menzies Aviation Group*, Case No. BC398127, Los Angeles Superior Court [settlement in favor of class].
- 22) *Salgado et al. v. ATC/Vancom, Inc.*, Case No. 1-07-CV-077987, Santa Clara County Superior Court.
- 23) *Parker v. King Security Services*, Case No. CGC-06-449368, San Francisco Superior Court [settlement in favor of class].
- 24) *Fitz et al. v. Able Iron Works*, Case No. BC343271, Los Angeles County Superior Court.
- 25) *Weddle et al. v. Frito-Lay Inc.*, Case No. C 99-05272 PJH United States District Court (N.D. Cal.).
- 26) *Herrera v. Evergreen International Airlines, Inc.*, Case No. BC398078, Los Angeles Superior Court [settlement in favor of class].
- 27) *Yarbrough et al. v. Labor Ready, Inc.*, Case No.836186-2, Alameda County Superior Court.
- 28) *Helix Electric, Inc. vs. Division of Labor Standards Enforcement, et al.*, Case No. 05-CV-2303, United States District Court (N.D. Cal.).
- 29) *Hurd et al. v. Swissport USA*, Case No. BC398126, Los Angeles Superior Court [settlement in favor of class].
- 30) *Quintero, et al. v. KCB Towers, Inc.*, Case No. SCVSS 144871, San Bernardino County Superior Court [class certified].
- 31) *Hernandez et al. v. Central Precast Concrete, Inc.*, Case No. RG05247294, Alameda County Superior Court.
- 32) *Gabriel Perea, et al. vs. RPM Enterprises, Inc., et al.*, Case No. 03CC00424, Orange County Superior Court.
- 33) *Andrea Savaglio, et al. vs. Wal-Mart Stores, Inc., et al.*, Case No. C-835687-7, Alameda County Superior Court California, and No. A110120, Court of Appeal, First Appellate District.
- 34) *Kelly Smith, et al. vs. Helix Electric, Inc.*, Case No. 05 ASO 3603, Sacramento County Superior Court [settlement in favor of class].
- 35) *German Pimental, et al. vs. Dan Tudor & Sons, Inc.*, Case No. 247852-NFT, Kern County Superior Court.
- 36) *Joyce Ann Archibald, et al. vs. The United States Department Of Commerce, Bureau Of The Census*, Case No. 00-473 C, United States Court of Federal Claims.

37) *Sharon Daniels, et al. vs. Eden Hospital, et al.*, Case No. 834885-6, Alameda County Superior Court.

38) *United State Of America, ex rel. vs. G.E. Chen Construction, Inc., et al.*, Case No. C 96-02341 MJJ (MEJ), United States District Court, Northern District of California.

39) *Francisco Zavala, et al. vs. Hard Drywall, Inc., et al.*, Sonoma County Superior Court.

40) *Fidel Trejo, et al. vs. Dwayne Nash Industries, Inc., et al.*, Case No. 99AS01365, Sacramento County Superior Court.

41) *Jose Medina Cortez, et al. vs. Dwayne Nash Industries, Inc., et al.*, Case No. CIV S-99-2198 LKK JFM, United States District Court, Eastern District of California.

42) *Armando Ramirez, et al. vs. Labor Ready, Inc., et al.*, Case No. 836186-2, Alameda County Superior Court.

43) *Larnel Gibson, et al. vs. Labor Connection, Inc.*, Case No. 226114, Sonoma County Superior Court.

44) *Anne Maccue-Garcia vs. Dominican Santa Cruz Hospital, et al.*, Case No. 323513, San Francisco County Superior Court.

45) *Douglas Ziegler, et al. vs. Old Country Roofing Company, et al.*, Case No. 03AS06598, Sacramento County Superior Court.

46) *Rex Ronald Chesshire vs. Kirk Witherow, et al.*, Case No. M-45188, Monterey County Superior Court.

47) *Raul Ramirez, et al. vs. Tahoe Truckee Unified School District, et al.*, Case No. TS 98/140, Nevada County Superior Court.

48) *Charles Range, et al. vs. E.L. Wills, Inc., et al.*, Case No. 794347-0, Alameda County Superior Court.

49) *United States of America, ex rel. vs. San Luis Gonzaga Construction, Inc., et al.*, Case No. C-96-02350 PJH, United States District Court, Northern District of California.

50) *Rosalina Garcia, et al. vs. Sutter Building Maintenance, Inc., et al.*, Case No. 99 AS 05842, Sacramento County Superior Court.

51) *Carlos Valdez, et al. vs. SCR Group, Inc.*, Case No. BC232166, Los Angeles County Superior Court.

52) *Antonio Velazquez, et al. vs. State Roofing Systems, Inc., et al.*, Case No. 796646-8, Alameda County Superior Court.

53) *Michael Lacy, et al. vs. Western Insulation, Inc.*, Case No. 818970-9, Alameda County Superior Court.

54) *Matthews et al. v. Petrochem Insulation, Inc.*, Case No. 2002067565, Alameda County Superior Court.

Other Labor & Employment Litigation

1) *SEIU-USWW et al. v. Preferred Building Services Inc.* (2021) 70 Cal.App.5th 403 [affirming grant of summary judgment to plaintiffs against employer that failed to retain its janitorial workforce in violation of the Displaced Janitor Opportunity Act and the Displaced Worker Protection Act].

2) *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111 [holding that an employment-related arbitration agreement was unconscionable and unenforceable under Code Civ. Proc., § 1281 due in part to extraordinarily high procedural unconscionability resulting from its complexity and presentation for immediate signing without explanation].

3) *County of Los Angeles v. Los Angeles County Employee Relations Commission* (2013) 56 Cal.4th 905 [privacy clause of the state constitution does not excuse County from disclosing represented employees' contact information to employees' union representatives].

4) *Hulteen, et al. v. AT & T. et al.* (9th Cir. 2007) 498 F.3d 1001 [Nationwide pregnancy discrimination action on behalf of a class of women who worked for AT&T and other Bell Operating System Companies before the Pregnancy Discrimination Act was passed in 1979 and who, upon requesting a determination of their retirement benefits in and after the mid-1990s, received substantially less service credit for periods of pregnancy-related leave than other employees who took leave during the same time period for other temporarily disabling medical conditions. Under *Pallas v. Pacific Bell* (9th Cir.1991) 940 F.2d 1324, another case in which the firm served as co-counsel for the plaintiff, the district court granted the *Hulteen* plaintiffs' motion for summary judgment in the liability phase of the case. The firm acted as co-counsel for the plaintiff class in the district court and took the lead in opposing and defeating AT&T's interlocutory appeal to the Ninth Circuit]. (Reversed by *AT&T Corp. v. Hulteen* (2009) 556 U.S. 701.)

5) *Lupiani v. Wal-Mart Stores, Inc.* (8th Cir. 2006) 435 F.3d 842 [Employees' claims that employer's ERISA plans undermined efforts to unionize and violated employer's fiduciary duty because they contained provisions making union-represented employees ineligible for certain benefits not preempted by the NLRA. Wal-Mart modified its Summary Plan Description and paid attorneys fees].

6) *California Labor Federation, et al. v. Labor and Workforce Development Agency* (2005) 19 Cal.App.5th 12 [obtained writ of mandate directing the LWDA to cease further dissemination of a one-sided video “news release” that the respondents had produced, at taxpayers’ expense, to promote anti-worker regulations proposed by the Division of Labor Standards Enforcement under the Schwarzenegger administration, which were designed to weaken workers’ meal and rest break rights and remedies under the Labor Code. The trial court ruled that the use of public funds for this purpose was improper, and that the inclusion of comments only from employers and business interests that supported and advocated for the adoption of the proposed regulations violated the basic minimum procedural requirements of the Administrative Procedures Act].

7) *Local 2-1971 of PACE Int’l Union v. Cooper* (W.D.N.C. 2005) 364 F.Supp.2d 546 [first WARN Act case establishing liability despite the employer’s claim of a lockout].

8) *State Personnel Board v. Department of Personnel Administration* (2005) 37 Cal.4th 512 [State Personnel Board (SPB) sought a writ of mandate challenging provisions of memoranda of understanding between the Department of Personnel Administration and various unions, which provided for arbitration as an alternative dispute resolution mechanism for litigating disciplinary action taken against State employees. The Supreme Court held that the statutes authorizing the MOU's violated the state Constitution's mandate that SPB review disciplinary actions against state civil service employees].

9) *Reynolds v. Bement* (2005) 36 Cal.4th 1075 [Amicus—Former shop managers for corporate employer filed a class action lawsuit against employer’s officers, directors, and shareholders, seeking to recover for tortious acts and for alleged misclassification of class members in violation of wage laws, which required them to work unpaid overtime hours. The Supreme Court held that the defendants were not individually liable for the alleged misclassification under statute entitling employees to recover unpaid balance of owed overtime compensation from their “employer” in civil action].

10) *Service Employees Int’l. Union, Local 715, AFL-CIO v. Cupertino Union School Dist.* (2005) 131 Cal.App.4th 985 [public sector employees’ union action to compel arbitration of a “contracting out” grievance against a school district—union did not forfeit its right to arbitrate the grievance by filing a timely, but procedurally defective, arbitration demand].

11) *City of Long Beach v. Department of Industrial Relations* (2004) 34 Cal.4th 942 [Amicus—City filed petition for writ of mandate challenging decision of Department of Industrial Relations that California’s prevailing wage law (“PWL”) applied to the construction of an animal shelter project that was financed in part with city funds. The Supreme Court held that the animal shelter project was not “public work” as defined by the former statute, and thus was not subject to PWL, and that an amendment to the statute redefining “public work” so as to include projects like the animal shelter applied prospectively only].

12) *Northern California Carpenters Regional Council v. Warmington Hercules Associates* (2004) 124 Cal.App.4th 296 [unfair business practices action against building contractors and subcontractors engaged in development of housing project for failure to pay prevailing wage under city redevelopment agency's policy—affirming denial of defendants' motion to strike complaint under California's anti-SLAPP (strategic lawsuit against public participation) statute].

13) *Int'l Assn. Of Machinists, Local 964 v. B.F. Goodrich* (9th Cir. 2004) 387 F.3d 1046 [judgment reaffirming lawfulness of practice of permitting full-time shop stewards to continue to draw regular wages].

14) *Independent Roofing Contractors v. California Apprenticeship Council* (2003) 114 Cal.App.4th 1330 [joint apprenticeship training program successfully fought a proposed geographic expansion of a "unilateral" apprenticeship program].

15) *Teamsters Local 856 v. Priceless, LLC* (2003) 112 Cal.App.4th 1500 [action seeking injunction to prohibit the release of individually identified earnings information pursuant to a request by a local newspaper under the California Public Records Act—affirming the granting of Union's motion for preliminary injunction, holding that the employees had a reasonable expectation of privacy in the information, and that the employees' interest in nondisclosure outweighed public interest in disclosure].

16) *Operating Engineers Local 3 v. Johnson* (2003) 110 Cal.App.4th 180 [County employee and her bargaining representative sued county and its chief probation officer, individually and in her official capacity, asserting claims including retaliation and invasion of privacy. The Court of Appeal affirmed the judgment awarding damages for invasion of privacy, holding that the exclusivity provision of the Workers Compensation Act did not bar the employee's constitutional privacy claim].

17) *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29 [successful appeal of a trial court's decision to overturn a decision by the Public Employees' Retirement System Board to grant employees status].

18) *Associated Builders and Contractors, Inc. v. San Francisco Airports Comm.* (1999) 21 Cal.4th 352 [upholding legality of Project Labor Agreements under which companies bidding on large public works projects may be required to pay union wages, use union hiring halls, and adhere to a grievance procedure in disciplining or terminating employees].

19) *Security Farms v. International Broth. of Teamsters* (9th Cir. 1997) 124 F.3d 999 [farm labor damages suit removed and bankruptcy reference withdrawn].

20) *In re Rufener Const., Inc.* (9th Cir. 1995) 53 F.3d 1064 [labor agreements and chapter 7 bankruptcy].

21) *Service Employees International Union v. City of Redwood City* (1995) 32 Cal.App.4th 53 [status of fire prevention officers as peace officers for purposes of safety requirement].

22) *Lane v. IUOE Stationary Engineers* (1989) 212 Cal.App.3d 164 [duty of fair representation is not per se applicable to public employee unions when Civil Service matters are involved unless the union voluntarily agreed to afford representation].

23) *Pitman v. City of Oakland* (1988) 197 Cal.App.3d 1037 [no violation of Lab. Code § 432.7 or invasion of privacy when arrest results in conviction, even though plaintiff had not been convicted when the arrest information was disclosed].

24) *Johnson v. Transp. Agency* (1987) 480 U.S. 616 [decision to take into account the sex of a female employee in promoting her was made pursuant to an affirmative action plan that represented a moderate, flexible, case-by-case approach to effecting a gradual improvement in the representation of minorities and women in the agency's work force and was fully consistent with Title VII].

25) *Stuart v. Civil Service Commission* (1985) 174 Cal.App.3d 201 [Civil Service Rules which were inconsistent with the Charter of the City and County which had established the Civil Service Commission could not conflict with provisions of the Charter. Therefore, where the Civil Service Rules that allowed for a shorter period of time to challenge a job interview than the Charter, the Charter controlled].

26) *George Day Constr. Co. v. United Bhd. of Carpenters & Joiners, Local 354* (9th Cir. 1984) 722 F.2d 1471 [Established that party who attends arbitration and permits arbitrator to decide the arbitrability question waives right to independent judicial evaluation on that issue].

27) *Mezey v. State of California* (1984) 161 Cal.App.3d 1060 [Effort on behalf of a state college instructor who was terminated in 1950 for failure to sign a loyalty oath but was not brought until 1981, was barred by the statute of limitations].

28) *Sheet Metal Workers' International Assn. Local No. 252 v. Standard Sheet Metal, Inc.* (9th Cir. 1983) 699 F.2d 481 [Established that failure to move to vacate arbitration award waives all defenses to enforcement].

29) *San Jose Federation of Teachers v. Superior Court* (1982) 132 Cal.App.3d 861— [Established the right of an arbitrator to reserve jurisdiction to resolve disputes concerning implementation of his award, and established that the court has the ability to confirm such an award].

30) *San Francisco Unified School District v. Superior Court* (1981) 116 Cal.App.3d 231—[Established parameters for discovery surrounding dismissal actions brought in connection with termination of certificated employees of school districts].

31) *Noguera v. North Monterey County Unified School District* (1980) 106 Cal.App.3d 64 [Established rights of employees of a public school district upon unification with another school district].

32) *Jarvis v. Corey* (1980) 28 Cal.3d 562 [Established the right of unions representing state employees to negotiating retroactive compensation with the State of California].

33) *Peralta Federation of Teachers v. Peralta Community College District* (1979) 24 Cal.3d 369 [Established right to tenure on behalf of part-time teachers employed by a community college district and to compensation at appropriate rate of pay based on semesters and percentage of full time taught].

34) *People v. General Motors Corp.* (1978) 78 Cal.App.3d 94 [Union did not breach the duty of fair representation when it negotiated a reasonable resolution of a grievance on behalf of a member].

35) *Ofsevit v. Trustees of Cal State University and Colleges* (1978) 21 Cal.3d 763 [Prohibited the California State University from firing a non-tenured instructor because of his exercise of free speech].

36) *Campbell Elementary Teachers Association v. Abbott* (1978) 76 Cal.App.3d 796 [Established principles and interpreted statutes concerning mass layoffs of teachers].

37) *United Teachers of Oakland v. Oakland Unified School District* (1977) 75 Cal.App.3d 322 [Established rights of teachers to assignment following return from sabbatical leave].

38) *Winters v. Unemployment Insurance Appeals Board* (1976) 63 Cal.App.3d 41 [Precedential decision concerning the obligation of the school district to send notices of layoff to teachers; dictated the contents of such notice].

39) *deGroat v. Newark Unified School District* (1976) 162 Cal.App.3d 538 [Overturned termination of a school teacher terminated for alleged unprofessional conduct because he had permitted a poetry reading which district administrators deemed to be offensive].

40) *Carpenters 46 County Conference Bd. v. Construction Industry Stabilization Committee* (N.D.Cal. 1975) 393 F.Supp. 480 [Union challenged Construction Industry Stabilization Committee (CISC) disapproval of a wage increase the union was scheduled to receive under collective bargaining agreement].

41) *Social Workers Union Local 535 v. Alameda County Welfare Department* (1974) 11 Cal.3d 382 [Established right of public employees to be represented by labor unions in meetings which might lead to disciplinary action. The case was decided in advance of the United States Supreme Court's decision in *Weingarten*].

42) *In re Coleman* (1974) 12 Cal.3d 568 [Union officers cannot be held in contempt of court order prohibiting mass picketing unless it can be shown that the individual supervised and directed the conduct which constituted the violation of the order].

43) *In re Brown* (1973) 9 Cal.3d 612 [Individuals participating in a demonstration could not be convicted of disturbing the peace since the activity was constitutionally protected and the individuals were engaged in neither violence nor disruption].

44) *Comings v. State Board of Education* (1972) 23 Cal.App.3d 94 [Employees may not be terminated for activities occurring away from employment unless there was some connection or nexus to their employment].

45) *Bekiaris v. Board of Education* (1972) 6 Cal.3d 575 [Established the right of probationary employees to be free from termination or other discipline because of activities related to the exercise of First Amendment rights].

46) *Governing Board v. Brennan* (1971) 18 Cal.App.3d 396 [Public school teacher may be terminated for persistent violation of laws relating to use of controlled substances].

47) *Berkeley Federation of Teachers v. Berkeley Unified School District* (1966) 178 Cal.App.3d 775 [Set out guidelines concerning the manner in which adult school teachers may obtain permanent status].

48) *United States of America, ex rel. International Brotherhood et al. v. G.E. Chen Construction, Inc.*, C-96-2341 MJJ (N.D.Cal.) [false claims for labor violations].

49) *San Francisco Police Officers Ass'n v. City and County of San Francisco*, No. 324635, San Francisco Superior Court [San Francisco Police Officers Association and several individual officers sought injunctive relief to prohibit the city, the police commission, and the police chief from taking any further punitive action against the individual officers in disciplinary proceedings initiated by the office of citizen complaints—affirming a decision of the trial court granting the officers' request for a preliminary injunction because the city failed to notify each officer of its proposed disciplinary action within the statutory one-year period].

Litigation on Behalf of ERISA Trust Funds

1) *Beck v. PACE International Union* (9th Cir. 2005) 427 F.3d 668 [merger into a multiemployer plan is a permissible way of terminating a single-employer pension plan, and the single employer owes a fiduciary duty to participants to consider the option impartially]. (Reversed by *Beck v. PACE Int'l Union* (2007) 551 U.S. 96.)

2) *Pension Trust Fund for Operating Engineers v. Federal Ins. Co.* (9th Cir. 2002) 307 F.3d 944 [\$7 million judgment enforcing the duty of the defendant insurance company to defend on a fiduciary policy issued on behalf of our trust fund client].

3) *In re Tobacco Cases II* (2001) 93 Cal.App.4th 183, review granted, review dismissed sub nom *Operating Engineers Local 12 Fund v. Phillip Morris Inc.*, 59 P.3d 149, 128 Cal.Rptr.2d 74 (Cal. Nov. 20, 2002, No. S102633).

4) *California Ironworkers Field Pension Trust v. Loomis Sayles & Co.* (9th Cir. 2001) 259 F.3d 1036 [ERISA fiduciary breach in bond investments].

5) *Stationary Engineers Local 39 Health & Welfare Trust Fund v. Philip Morris Co.* (N.D.Cal. 1998) 1998 WL 476265 [tobacco-related injury to health plans].

6) *McMorgan & Co. v. First California Mortg. Co.* (N.D. Cal. 1995) 916 F.Supp. 966 [ERISA fiduciary breach by servicer of construction mortgages].

7) *Carpenters Health and Welfare Trust Fund for California v. Tri-Capital* (9th Cir. 1994) 25 F.3d 849 [ERISA preemption of State construction remedies].

8) *Operating Engineers Health and Welfare Trust Fund v. Mega Life and Health Ins. Co.*, No. C 02-04072 CRB (N.D.Cal.) [The firm represented ERISA trust fund in suit against insurer, seeking reimbursement under a stop loss policy for claims paid to five beneficiaries—requirement that proof of loss be submitted within 90 days applied to claims under the policy, but insurer failed to prove prejudice from the fund's untimely notice of claims].

9) *Pension Trust Fund Operating Engineers v. The Chubb Corporation, et al.* (N.D. Cal. No. C 99-0708-WHA) [Federal court action on behalf of pension trust fund under its fiduciary insurance policy for breach of insurer's duty to defend. The case settled after the Ninth Circuit ruled that the insurer did, in fact, breach its duty to defend].

10) *Del Castillo, et al. v. Community Child Care Counsel of Santa Clara Co.*, U.S.D.C. Northern Dist. No. 5:17-cv-07243-BLF (ERISA).