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11 IBARRA and the CERTIFIED CLASS

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14
15 JACQUELINE F. IBARRA, an
16 individual on behalf of herself and all
other similarly situated,

17 Plaintiff,

18 vs.

19 WELLS FARGO BANK, NA.; and
20 DOES 1 through 50, inclusive,

21 Defendants.

Case No.: CV 17-04344-PA (ASx)

Judge: Hon. Percy Anderson

**DECLARATION OF JOSHUA H.
HAFFNER IN SUPPORT OF
PLAINTIFF'S MOTION FOR AN
AWARD OF ATTORNEYS' FEES
AND COSTS AND AWARDED
CLASS REPRESENTATIVE
SERVICE AWARD**

Date: July 16, 2018

Time: 1:30 p.m. _

Crtrm: 9A

DECLARATION OF JOSHUA H. HAFFNER

1
2 I, Joshua H. Haffner,

3 1. I am an attorney licensed to practice in the United States District Court,
4 Central District of California, and am founder and principal of Haffner Law PC, co-
5 counsel of record for Plaintiff and the certified Class in this case. I have personal
6 knowledge of the facts set forth herein. If called as a witness, I could and would
7 competently testify thereto.

8 2. This declaration is submitted in support of Plaintiff's Motion for an award
9 of attorneys' fees and costs, and awarding class representative service award.

10 3. I am managing this case at Haffner Law. I have been practicing law in
11 California in 1997. I attended University of Texas-Austin for my undergraduate
12 degree, graduating in 1993 with high honors, and attended Hastings College of the Law
13 for law school, graduating in 1996, cum laude. I was admitted to practice law in the
14 State of California in 1997, the State of New York in 1998, the State of Washington in
15 2018, and have been admitted to practice in multiple federal district and appellate
16 courts over the years.

17 4. I have been practicing complex civil litigation, including class actions, for
18 approximately 22 years in California. I have extensive experience handling class
19 actions. Some of the class actions where I have acted as class counsel which have
20 successfully resolved are:

- 21 a) *Washington v. Key Health Medical Solutions*, Los Angeles Superior
22 Court Case No. BC358270, class action for unfair business practice
23 against a medical lien provider;
- 24 b) *Rosario v. JAL Passenger Services America, Inc.*, Los Angeles
25 Superior Court Case No. BC380345, a wage and hour class action.
- 26 c) *Estrada v. Harbor Express*, Los Angeles Superior Court Case No.
27 BC508808, a wage and hour action on behalf of truck drivers;
- 28 d) *Kirk v. First American*, Los Angeles Superior Court Case No. BC

1 329482, unfair business practices class action against a title
2 insurance company;

3 e) *Mendoza v. Pacer*, USDC, Southern District of California, Case
4 No. Case No 13-cv-2344-LAB (JMA), a wage and hour action on
5 behalf of truck drivers;

6 f) *Constabileo v. MBK Builders, Inc.*, Orange County Case No. 30-
7 2013-00649426, a construction defect class action;

8 g) *Jackson v. Travelers Commercial Ins. Co.*, Los Angeles Superior
9 Court Case No. 639944, an insurance bad faith class action for
10 inclusion of an unlawful wildfire smoke sublimit in homeowner
11 policies;

12 h) *Leitzbach v. Atlas Van Lines*, USDC, Central District of California
13 Case No. 2:16-cv-08790-GW-E, a wage and hour action on behalf
14 of truck drivers.

15 5. I have experience litigating a class action through trial. The *Kirk v. First*
16 *American* class action against a title company for overcharging for services was tried in
17 Los Angeles Superior Court in late 2013 and early 2014. I was one of three lead
18 counsel for the Plaintiff Class present during the trial. The case resulted in a verdict
19 for the Plaintiff Class.

20 6. I was nominated for Consumer Attorneys of California, Trial Lawyer of
21 the Year for 2012. I have written briefs for and argued before the California Court of
22 Appeals on multiple occasions, and have been involved in multiple published appellate
23 opinions.

24 7. I have broad experience litigating wage and hour class actions,
25 particularly issues raised by activity based compensation systems, like piece-rate or
26 commission-based payment plans. In particular, I have litigated many cases on behalf
27 of truck drivers who are paid on a piece-rate basis, usually on a per mile driven or a
28 percentage of the job basis. This experience was invaluable in evaluating, developing

1 and litigating this case. This is because the theory that Wells Fargo's commission-
2 based compensation plan in an activity-based system which does not compensate for
3 rest break time comes directly from the piece-rate cases and precedent, which I have
4 litigated extensively over the last several years.

5 8. Haffner Law was founded by me in July 2016. Haffner Law was a two-
6 person law firm for the litigation of this case up to this point (a third attorney joins the
7 firm this month). Prior to founding Haffner Law PC, I was a partner at Kabateck
8 Brown Kellner LLP, a civil litigation and class action law firm located in Los Angeles,
9 California.

10 9. I was brought into this matter at the inception of the case by Paul Stevens,
11 Esq. of Stevens LC, with whom I have had a long-term professional association. In
12 taking on this case with co-counsel, Haffner Law had to devote a significant amount of
13 its resources to this action, and this precluded the firm from accepting other work.

14 10. Haffner Law handles cases almost exclusively on a contingency basis.
15 My office's standard contingency rate for individual matters is 40%, although it does
16 vary sometimes but not usually below 33%. This action was litigated on a purely
17 contingency fee basis, with my co-counsel and my office equally advancing costs of
18 litigation.

19 11. This action carried, and still carries, significant risk. Wells Fargo
20 vigorously contested liability throughout this action, asserting that its pay plan is
21 materially different than the pay plan analyzed in Vaquero v. Stoneledge Furniture,
22 LLC, 9 Cal. App. 5th 98 (2017), and Vaquero does not apply. We faced the risk of
23 receiving no recovery if we did not prevail on our liability theory. Moreover, we still
24 face that risk, as Wells Fargo is appealing the liability ruling and, if Wells Fargo
25 prevails we will receive no compensation for our efforts in this matter. In addition, we
26 faced substantial risk with respect our damage theory and to achievement of the
27 common fund of \$97,284,817.91. The majority of federal district court cases (3 out of
28 4) interpreting how "regular rate of compensation" for the purposes of damages under

1 Labor Code §226.7(c) should be calculated appeared to be contrary to Plaintiff's
2 position. We faced a substantial risk of not prevailing on our damage theory.
3 Moreover, we still face the risk of having the common fund reduced to less than a
4 quarter of its current value, as Wells Fargo is also appealing the damage ruling.

5 12. I have been involved in every aspect of this case, from developing theories,
6 meeting clients and co-counsel, drafting the pleadings and briefs, researching relevant
7 theories of the case, participating in settlement negotiations, and communicating with
8 opposing counsel and class members. My office's practice is to keep contemporaneous
9 track of time and regularly record it, and the time for this case was kept pursuant to this
10 practice.

11 13. As reflected in the records filed contemporaneously with this motion, I
12 worked 690.6 hours on this case. This is a conservative statement of my time on this
13 case. A reasonable billable rate for my services in the local community based on my
14 experience, reputation, track record, and background, and my current hourly rate, is
15 \$775 per hour. I usually work, as here, on a contingent fee, however, and not hourly. I
16 have recorded the time that I have worked on this case. I have worked a total of 690.6
17 hours on this case. Thus, my total fees associated with this case \$535,215.00.

18 14. Graham G. Lambert is an associate attorney at Haffner Law, and has been
19 an attorney since May of 2015, and has worked on numerous class actions in that time.
20 Mr. Lambert's current hourly rate is \$350.00 per hour. As reflected in the records filed
21 contemporaneously with this motion, Mr. Lambert worked 64.8 hours on this case.
22 Thus, Mr. Graham's total fees associated with this case \$22,680.00.

23 15. The time spent by Mr. Graham and I total 755.40 hours. Thus, the total
24 fees of my office associated with this case are \$557,895.00. The time spent by my
25 office and my co-counsel litigating this matter was reasonable and necessary to
26 accomplish what we did in this matter.

27 16. I have extensive experience litigating appeals, including the following
28 appeals: *Chiang v. D.R. Horton Los Angeles Holding Co., Inc.*, 2015 WL 4940630,

1 *Brasch v. K. Hovnanian Enterprises*, 2015 WL 4940632; *Rogers v. JustMugshots.com*
2 *Corp.*, 2015 WL 5838403; *R.S. v. PacifiCare Life and Health Insurance Co.*, 2015 WL
3 1887184; *Fire Insurance Exchange v. Vasquez*, 2017 WL 1173730; *Henderson v.*
4 *Farmers Group, Inc.*, 210 Cal.App.4th 459 (2012); *R.S v. PacifiCare Life and Health*
5 *Ins. Co.*, 194 Cal.App.4th 192 (2011); *21st Century Ins. Co. v. Superior Court* (2005)
6 127 Cal.App.4th 1351; *Doheny Park Terrace Homeowners Association, Inc. v Truck*
7 *Insurance Exchange*, 132 Cal.App.4th 1076 (2005); *Christopher v. Residence Mutual*
8 *Ins. Co.*, 2011 WL 1367419; and *Roberts v. United Healthcare Services, Inc.*, 2
9 Cal.App.5th 132 (2016). I concur with the estimate by my counsel, Mr. Stevens, of the
10 amount of future work that will be required by Class Counsel to handle future work,
11 specifically, the appeal and administration of class distribution following appeal.

12 17. To date, my office, along with my co-counsel have incurred expenses of
13 \$66,560.50 in costs, of which \$62,214.50 are non-taxable costs.

14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct.

16 Executed on this 15th day of June 2018, at Los Angeles, California.

17
18 By: /s/ Joshua H. Haffner
19 Joshua H. Haffner