

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|------------------------------------------|---|---------------------------|
| _____ |) | |
| MICHELLE ANN CICCARELLA et al., |) | |
| individually and on behalf of all others |) | |
| similarly situated, |) | CASE NO. 7:19-cv-08785-CS |
| |) | |
| Plaintiffs, |) | |
| |) | |
| -against- |) | |
| |) | |
| CALIFIA FARMS, LLC, |) | |
| |) | |
| _____ |) | |

**DECLARATION OF SAMUEL A. WONG SUPPORT OF MOTION FOR ATTORNEYS’
FEES AND REIMBURSEMENT OF EXPENSES FILED ON BEHALF OF
AEGIS LAW FIRM, PC**

I, Samuel A. Wong, declare as follows:

1. I am an attorney at law licensed to practice before all of the courts of the State of California. I am a principal and founding attorney for Aegis Law Firm, PC (“Aegis”), and counsel for Plaintiff Daniel Mitchell (“Plaintiff”), on behalf of himself and others similarly situated in the related matter *Daniel Mitchell v. Califia Farms, LLC*, Orange County Superior Court of California Case No. 30-2018-01010882-CU-NP-CXC. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.

2. I submit this declaration in support of Plaintiff Michelle Ann Cicciarella, Tanasha Rietdyk, Daniel Mitchell, Adriana Pena, Kayla Villanueva, and Kristen Landeros’s Motion for Final Approval of Class Action Settlement. The information set forth in this Declaration is based upon my personal knowledge, as well as information shared with me by other members of my firm, and, if called on to do so, I could and would testify competently thereto.

3. My firm is counsel for Plaintiff Daniel Mitchell and proposed Plaintiffs Adriana Pena, Kayla Villanueva, and Kristen Landeros, and is co-counsel in this litigation. Aegis prosecutes class actions including class actions involving consumers and others who have had their rights violated by unlawful business practices. Aegis, either on its own or with co-counsel, is currently serving as plaintiffs' counsel of record in over 100 class action cases pending in both state and federal court. The attorneys working on this case have been appointed class counsel in many cases, through both contested motions and settlement approval motions.

4. Aegis has litigated and successfully resolved many class action cases. *See, e.g.,* *Romo, et. al, v. GMRI, Inc. d/b/a/ Olive Garden*, United States District Court Central District of California, Case No. EDCV-12-0715-JLQ (class certification granted for restaurant workers' rest period claims); *Sawyer v. Retail Data, LLC*, Orange County Superior Court, Case No. 30-2014-00753767-CU-OE-CXC (unpaid wage and rest break claims for piece rate workers); *Gonzalez v. SFFI Company, Inc., et. al*, San Bernardino County Superior Court, Case No. CIV DS1504287 (unpaid wages, meal period and rest break claims for non-exempt employees); *Antoine v. Riverstone Residential California, Inc., et. al*, Sacramento County Superior Court, Case No. 34-2013-00155974 (rate of pay, on-call time, unpaid wage, meal period, rest break, and expense reimbursement claims for non-exempt employees); *Nguyen v. Pharmerica*, Orange County Superior Court, Case No. 30-2014-00716072-CU-OE-CXC (unpaid wages and unreimbursed expenses for pharmacists); *Orellana v. Westlake*, Los Angeles County Superior Court, Case No. BC539614 (unpaid overtime, meal period and rest break claims for call center employees); *Kent v. Mountain View Child Care, Inc.*, Los Angeles County Superior Court, Case No. BC539633 (minimum wage, overtime, meal period, and rest break claims for hospital workers); *Durroh v. East West Bank*, Los Angeles County Superior Court, Case No. BC528860 (overtime claims for failure to include bonuses in regular rate of pay for bank workers); *O'Brien et al. v. Pizza Hut of Southeast Kansas, Inc. et al.*, Riverside County Superior Court, Case No MCC 1301030 (meal period and expense reimbursement claims for delivery drivers); *Bell v. Prime Healthcare*, Orange County Superior Court, Case

No. 30-2011-00475240-CU-OE-CXC (overtime claims for failure to include shift premiums in regular rate of pay and failure to provide meal and rest periods to hospital workers), *Grana v. Toys R US-Delaware, Inc.*, Central District of California, Case No. 2:13-cv-01302-DSF-JCG (bag check claims for unpaid wages and failure to provide meal periods and rest breaks to retail employees); *Mendez v. H.J. Heinz Company, L.P., et. al.*, Orange County Superior Court, Case No. 30-2013-00644915-CU-OE-CXC (failure to pay all wages to factory workers due to rounding practice); *Fresh & Easy Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP 4705 (failure to provide meal and rest periods to supermarket workers); *Lunsford v Stater Bros.*, Riverside Superior Court, Case No. RIC 1104475 (failure to provide meal and rest periods to supermarket workers); *Gregg v. Belo*, Riverside Superior Court, Case No. RIC 523697 (unpaid wages and missed meal and rest periods due to misclassification of newspaper delivery employees); *Brown v. Experian Information Solutions, Inc., et. al.*, Orange County Superior Court, Case No. 30-2012-00375163 (misclassification of engineers and similar positions); *Tereth v. Shakey's USA, Inc.*, Los Angeles Superior Court, Case No. BC441359 (failure to provide meal and rest periods to restaurant employees); *Azurin v. Harbor Distributing LLC, et. al.*, Los Angeles Superior Court, Case No. BC421392 (failure to pay overtime wages, provide meal and rest periods, reimburse business expenses to Account Managers); *Caffero v. ABC* (failure to provide meal periods and reimburse expenses of therapists). All cases cited above were successfully resolved for the plaintiff classes.

5. Aegis has been appointed class counsel in over 100 cases, through both contested motions and settlement approval motions, and have obtained substantial recoveries for hundreds of thousands or more employees through these cases. Aegis is currently counsel of record in more than 100 class actions. Recently, Aegis was appointed to serve on the Plaintiffs' Steering Committee and as Liaison Counsel in the federal multi-district litigation over the Sprouts Farmers Market employee data breach. *In re Sprouts Farmers Market Incorporated Employee Data Security Breach Litigation*, Case No MDL 16-02731-PHX- DLR (D. Ariz.).

6. I am a graduate of University of Pennsylvania Law School, where I received his J.D. in 2001. I received a Bachelors of Arts in Sociology from the University of California at Berkeley in 1997.

7. After graduation from law school in 2001, the same year in which I took and successfully passed the California Bar Exam, I moved to back to Los Angeles, California where I was employed at Paul Hastings, Janofsky & Walker, LLP. While working in the employment department at Paul Hastings, I was involved in numerous wage and hour class action lawsuits and other employment related matters.

8. I became a founding partner of Aegis Law Firm, PC in 2003, and focused my practice on plaintiff's side employment work. Throughout my years of practice, I have represented and obtained successful outcomes for my clients, including awards through arbitration and trial.

9. I am a member of the Orange County Bar Association, Orange County Trial Lawyers Association, and California Employment Lawyers Association.

10. I was chosen by Law and Politics Magazine as a Super Lawyer Rising Star, representing one of the top 2.5% of lawyers under 40 in Southern California in 2011, 2012, 2013, and 2014. He was chosen by Law and Politics Magazine as a Super Lawyer in 2015, 2016, 2017, 2018, 2019, and 2020. I currently bill at a rate of \$785 per hour.

11. Kashif Haque is a founding partner of Aegis Law Firm. Mr. Haque is a graduate of Washington University School of Law, where he received his J.D. in 2001. While in law school he was a recipient of numerous honors, including being elected by his peers on the Law Review to be a member of the Editorial Board, author of an article published in the Law Review, chosen as an Executive Board Member of Moot Court, and a member of the Dean's List. He received a Bachelor's of Science in Business Administration from the Harmon School of Business at University of Central Missouri in 1998, where he was a member of Beta Alpha Psi honors fraternity.

12. During law school, Mr. Haque worked for a well-known class action and employment rights law firm in St. Louis, Missouri named Schwartz, Herman and Davidson LLP. During his tenure, he participated in litigating the largest class action in Missouri history.

13. After graduation in 2001, same year in which he took and successfully passed the California Bar Exam, Mr. Haque moved to Los Angeles, California where he was employed in the legal services department at PricewaterhouseCoopers LLP (“PwC”).

14. In 2003, Mr. Haque left PwC and became a founding partner of Aegis Law Firm, PC, along with Samuel A. Wong, Esq. who at the time was a member of the Employment Law department at Paul, Hastings, Janofsky & Walker LLP. Mr. Haque focused his practice on plaintiff’s employment work, which he has been doing almost exclusively since 2004. Over the course of his career, Mr. Haque has handled approximately 1,000 employment related cases, many of which included wage and hour claims. He is currently litigating over 30 employment class action cases. Over the years he has represented and obtained successful outcomes for his clients, including favorable verdicts through arbitration and trial.

15. Further, Mr. Haque is the former Chair (Elect) for the Orange County Bar Association—Labor and Employment Section and an active member of the California Employment Lawyers Association. He has been a speaker on employment class actions for various organizations, including the California State Bar and Orange County Bar Association.

16. Mr. Haque has been selected by Law and Politics Magazine as a Super Lawyer for the last twelve years (2009 through 2020).

17. Mr. Haque was selected by OC Metro Magazine as one of the top five plaintiff’s employment lawyers in Orange County for every year from 2013-2016. Mr. Haque currently bills at a rate of \$785 per hour.

18. Suren N. Weerasuriya is an associate attorney at Aegis. Mr. Weerasuriya is a graduate of Southwestern University School of Law, where he received his J.D. in 2011. He was admitted to the California Bar in December of 2011. He was admitted in all districts for the

United States District Court of California and has litigated numerous class and representative actions in federal and state court. Mr. Weerasuriya's current hourly rate is \$525.

19. Samantha A. Smith is a former associate at Aegis. She was admitted to the California Bar in December 2004. She received a J.D. from the University of California, Hastings College of the Law and her B.A. from the University of California, Davis. Prior to joining Aegis, Ms. Smith worked at another plaintiff's-side class action law firm in Orange County, California. While at Aegis, she billed at a rate of \$600 per hour.

20. As described below in detail, I have been personally involved in all aspects of my firm's work in the *Mitchell* litigation, including the following: extensive research and investigation, prosecution of action from its inception; multiple mediations before an esteemed mediator, Hon. Carl West of JAMS in Los Angeles County, California. Aegis has vigorously represented the interests of the Settlement Class Members throughout the course of the litigation and settlement process.

AEGIS EXPENDED SIGNIFICANT TIME ON THE MATTER

A. Pre-Litigation Investigation and The Filing of the Complaint

21. The *Mitchell* matter is a consumer class action, filed on August 7, 2018. In support of his claims, Mitchell alleged that Defendant prominently and falsely claimed on its products and website that certain creamers, almond milk, and probiotic yogurt products (the "Products") were "Carrageenan Free" or "Free of Carrageenan." He also alleged that Defendant fraudulently induced consumers across the country to buy the Products at a premium.

22. In the operative complaint, Mitchell alleges causes of actions for: (1) violations of Business and Professions Code sections §§ 17200, *et seq.*; (2) false advertising in violation of Business and Professions Code §§ 17500, *et seq.*, (3) violation of the California Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*, and (4) breach of express warranty.

23. Aegis conducted a thorough investigation of the claims and ingredients of the Products, including speaking with witnesses, scientific and factual research. Additionally, Aegis conducted extensive legal research to determine whether the use of Carrageenan in products

advertised as “Free of Carrageenan” violated California consumer protection and unfair business practices statutes.

24. After completing our initial research and investigation, an initial complaint was filed on August 7, 2018.

B. Mediations and Discovery

25. Shortly after Plaintiff filed this case, the parties began settlement discussions. They agreed to stay discovery and schedule a mediation. Over the following year, the Parties diligently worked to settle the matter and participated in two mediations, one on February 8, 2019, and another on July 17, 2019. Throughout this time, Aegis performed extensive research and investigation to evaluate the merits of the *Mitchell* case. Up until November 2019, the parties were working to schedule a third mediation.

26. After the unsuccessful mediations, Aegis proceeded with formal discovery pursuant to the California Code of Civil Procedure. Aegis propounded written discovery and scheduled several depositions, and was ultimately forced to engage in extensive motion practice in our efforts to obtain formal discovery.

C. Ultimate Settlement of the Above-Captioned Action

28. In December 2019, Aegis learned of the above-caption action. Shortly thereafter, Aegis was provided with a draft of the Settlement Agreement.

29. Based on my extensive experience, I believe the Settlement to be fair, reasonable, and adequate under Federal Civil Procedure Rule 23.

30. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time, by category, spent by the partners, and other attorneys of my firm who were involved in this litigation, and the lodestar calculation based on my firm’s current billing rates.¹ The schedule was prepared from contemporaneous time records regularly prepared and maintained by

¹ This application does not include time for anyone who spent fewer than 5 hours on this litigation.

my firm, which are available at the request of the Court for review *in camera*.² Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

31. The hourly rates for the partners and other attorneys in my firm included in Exhibit 1 are the same as the regular current rates that have been used in the lodestar cross check accepted by courts in other class litigation.

32. The total number of hours expended on this litigation by my firm is 617.8 hours. The total lodestar for my firm is \$438,573.00.

33. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

34. As detailed in Exhibit 2, my firm has incurred a total of \$22,656.09 in unreimbursed expenses in connection with the prosecution of this litigation.

35. The expenses incurred in this action are reflected on the books and records of my firm, which are available at the request of the Court. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses as charged by the vendors. Third-party expenses are not marked up.

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

Executed this 28th day of May 2020, at Irvine, California.

/s/ Samuel A. Wong
Samuel A. Wong

² These records may include information concerning privileged and/or confidential attorney-client communications or work product.

EXHIBIT 1***Cicciarella v. Califia Farms Litigation*****No. 19-cv-08785 (S.D.N.Y.)****AEGIS LAW FIRM, PC****TIME REPORT — Inception through May 28, 2020**

| Name/Position | A | B | C | D | E | F | G | Total Hours | Hourly Rate | Total Lodestar |
|-----------------------|------|-------|------|------|------|------|-------|-------------|-------------|----------------|
| Samuel A. Wong/P | 48.3 | 52.3 | 30.7 | 15.4 | 31.9 | 0 | 65 | 243.6 | \$785 | \$191,226.00 |
| Kashif Haque/P | 17.2 | 14.7 | 6.1 | 8.8 | 11.9 | 0 | 55 | 113.7 | \$785 | \$89,254.50 |
| Suren N. Weerasuriya | 0 | 20.1 | 35.1 | 0 | 4.9 | 0 | 0 | 60.1 | \$525 | \$31,552.50 |
| Samantha A. Smith/A | 23.8 | 33.3 | 47.1 | 26.6 | 14.4 | 10.5 | 55.2 | 210.9 | \$600 | \$126,540.00 |
| TOTAL LODESTAR | 89.3 | 120.4 | 119 | 50.8 | 63.1 | 10.5 | 175.2 | 617.8 | --- | \$438,573.00 |

CATEGORIES

- A. Pre-Filing Investigation and Initial Complaint
- B. Legal Research, Pleadings, Briefs, and Motions After Initial Complaint
- C. Discovery and Post-Filing Investigation
- D. Experts and Consultants
- E. Litigation Strategy, Analysis, and Case Management
- F. Court Appearances & Preparation
- G. Settlement

POSITION

- P = Partner
- A = Associate/Staff Attorney
- C = Senior Counsel/Of Counsel
- PL = Paralegal
- O = Other

EXHIBIT 2

Cicciarella v. Califia Farms Litigation
No. 19-cv-08785 (S.D.N.Y.)
AEGIS LAW FIRM, PC

EXPENSE REPORT — Inception through May 28, 2020

| <u>Categories:</u> | <u>Amount</u> |
|-------------------------------------------|----------------------|
| Filing/Witness Fees | \$2,239.83 |
| Court Reporters/Transcript/Video | \$2,635.00 |
| Experts/Consultants/Professional Services | \$4,725.00 |
| Mediation | \$10,900.00 |
| Transportation to Court | \$536.84 |
| PACER Database Research Fees | \$196.37 |
| Copies/Postage | \$1,423.05 |
| TOTAL EXPENSES: | \$22,656.09 |