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Attorneys for Plaintiffs  
CORAL MCQUEEN and FELICIA TREVINO

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF NAPA

CORAL MCQUEEN and FELICIA  
TREVINO, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

ODD FELLOWS HOME OF  
CALIFORNIA, a California corporation,  
and DOES 1-100,

Defendants.

Case No. C-26-64176

**DECLARATION OF DAVID HARRIS IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS-  
ACTION SETTLEMENT**

*Assigned to the Honorable Diane M. Price*

Date: November 19, 2015

Time: 8:30 a.m.

Place: Dept. F

1           **DAVID S. HARRIS** declares under penalty of perjury of the laws of the United States and the  
2 State of California as follows:

3           1.       I am a member in good standing of the State Bar of California and I am one of the  
4 attorneys for Plaintiffs Coral McQueen and Felicia Trevino (“Plaintiffs”) in the within action. If sworn  
5 as a witness, I could competently testify to each and every fact set forth herein from my own personal  
6 knowledge.

7           2.       I am a graduate of the University of Colorado, Boulder (BS 1994) and the University of  
8 San Francisco School of Law (JD 2001) and a member of the California bar (December 3, 2001). Upon  
9 graduating from the University of San Francisco, School of Law, I joined the litigation group in the Palo  
10 Alto office of Brobeck, Phleger & Harrison LLP, where I worked from October 2001 through February  
11 2003. Thereafter, I joined the litigation group in the San Francisco office of Morgan Lewis & Bockius  
12 LLP, where I worked from February 2003 through July 2006. Thereafter, I founded the North Bay Law  
13 Group, where I have worked for the past nine years.

14          3.       I have extensive experience litigating class actions. I have represented employees in  
15 numerous disputes concerning their receipt of pay in connection with their employment, both in state  
16 and federal courts in California. E.g., Covillo v. Specialty’s Café & Bakery, Inc., 2012 U.S. Dist.  
17 LEXIS 114602 (N.D. Cal. 2012) (denial of employer’s attempt to enforce arbitration clause in  
18 employment agreements); Escobar v. Whiteside Constr. Corp., 2008 U.S. Dist. LEXIS 68439 (N.D. Cal.  
19 2008) (certification of collective action); Tremblay v. Chevron Stations, Inc., 2008 Westlaw 2020514  
20 (N.D. Cal. 2008) (certification of collective action); Perez v. Maid Brigade, Inc., 2007 U.S. Dist. LEXIS  
21 78412 (N.D. Cal. 2007) (denial of employer’s effort to enforce arbitration clause in employment  
22 agreements). I have also litigated and settled many class actions. E.g., Jacobs v. CSAA Inter Insurance  
23 Bureau, N. D. Cal. Case No. 3:07-CV-00362-MHP (\$1,500,000 settlement of labor-law claims);  
24 Tremblay v. Chevron Stations, Inc., N.D. Cal. Case No. CV 07-6009 EDL (\$4,500,000 settlement of  
25 labor-law claims); Dizon v. Ito, Incorporated, N.D. Cal. Case No. 3:10-CV-00239-JSW (\$2,451,000  
26 settlement of California Labor Code and FLSA claims); In Re Paypal Litigation, N.D. Cal. Case  
27 No..5:02-CV-01227-JF (defense and settlement of class action lawsuit alleging violations of the  
28 Electronic Funds Transfer Act); Bernardino v. Macerich Management Co., Marin Superior Court Case

1 No. CIV-1004645 (\$2,200,000 class action settlement of labor law claims); Jacobs v. Institute of  
2 Reading Dev., Inc., N.D. Cal. Case No. 10-CV-00574-JCS (\$275,000 settlement of California Labor  
3 Code and FLSA claims); Seielstad et al. v. Aegis Senior Communities, LLC, N.D. Cal. Case No. CV-  
4 09-1797 MMC (\$1,000,000 settlement of labor-law wage and hour class action); Escobar v. Whiteside  
5 Construction Corp., N.D. Cal. Case No. CV-08-1120-WHA (\$440,000 class action settlement of labor-  
6 law claims); Wade v. Minatta Transportation Co., N.D. Cal. Case No. CV-10-02796-BZ (\$500,000  
7 settlement of class action wage and hour labor law claims); Perez v. Maid Brigade, Inc., N.D. Cal. Case  
8 No. 3:07-CV-03473-SI (\$90,000 class action settlement of labor-law claims); Blandino v. MCM  
9 Construction, Inc., N.D. Cal. Case No. 12-01729-WHO (\$865,000 class action settlement of labor law  
10 claims); Covillo et al. v. Specialty's Café and Bakery, Inc., N.D. Cal. Case No. 11-CV-00594-DMR  
11 (\$2,000,000 class action settlement of wage and hour labor law claims); Douglas v. Arcadia Health  
12 Services, Inc., N.D. Cal. Case No. CV-11-3552 (\$623,000 class action settlement of labor law claims);  
13 Thio et al. v. Genji LLC et al., N.D. Cal. Case No. 12-CV-05756 (\$1,250,000 class action settlement of  
14 labor law claims); O'Sullivan v. AMN Services, Inc., N.D. Cal. Case No. 3:12-cv-02125-JCS  
15 (\$3,000,000 class action settlement regarding denial of breaks and failure to reimburse business  
16 expenses); Page v. Grand Home Holdings, Inc., N.D. Cal. Case No. 13-CV-02754-NC (\$200,000 class  
17 action settlement of labor law claims). The present case, along with a majority of the foregoing cases,  
18 was prosecuted on a contingent-fee basis.

19 4. James Rush is a graduate of the University of California, Riverside (BA 1995) and the  
20 University of San Francisco School of Law (JD 2005) and a member of the California bar (December,  
21 2005). Upon graduating from the University of San Francisco, School of Law, Mr. Rush joined the San  
22 Francisco office of Saveri & Saveri, Inc., where he worked from December, 2005 through October 2007,  
23 representing plaintiffs in national, anti-trust class actions. Thereafter, Mr. Rush founded the Law Office  
24 of James D. Rush, APC, where he has worked for the past eight years. Mr. Rush has represented  
25 employees in disputes concerning their receipt of pay in connection with their employment, both in state  
26 and federal courts in California. E.g., Covillo v. Specialty's Café & Bakery, Inc., 2012 U.S. Dist.  
27 LEXIS 114602 (N.D. Cal. 2012) (denial of employer's attempt to enforce arbitration clause in  
28 employment agreements; \$2,000,000 settlement approved by court); O'Sullivan v. AMN Services, Inc.

1 N.D. Cal. Case No. 3:12-cv-02125-JCS (denial of breaks and failure to reimburse business expenses;  
2 \$3,000,000 settlement approved by court). Mr. Rush has also represented individual plaintiffs in cases  
3 against their employers concerning their receipt of pay, wrongful termination, discrimination and  
4 whistleblower retaliation.

5 5. As set forth above, for more than nine years I have researched and argued claims similar  
6 to those at issue in this case, *i.e.* payment of overtime and minimum wages, payment of wages on  
7 account of missed rest and meal breaks, payment of “continuing wages” under section 203, and  
8 liquidated damages under section 226 of the California Labor Code. I have carefully reviewed and  
9 assessed the state of the law on the payment of an additional hour of pay on missed rest and meal breaks,  
10 payment of unpaid overtime, payment of wages to discharged employees, the demonstration of injury on  
11 account of defective wage statements, and class certification in California.

12 6. I began investigating the facts of this case, namely, whether there were violations of the  
13 California Labor Code, in March 2014. From the outset, counsel for Defendant Odd Fellows of  
14 California (“Defendant”) made it clear that it would vigorously defend itself against Plaintiffs’ claims,  
15 including opposing class certification. Notwithstanding the defense position, a substantial amount of  
16 data was produced and analyzed in preparation for a mediation session between the parties.  
17 Specifically, Defendant provided extensive documents and hundreds of pages of putative class data to  
18 Plaintiffs and their counsel to review and analyze. This information included summary employment data  
19 for the entire putative class, Defendant’s policies and documents relevant to the issues in the litigation,  
20 and a statistically-significant sampling of full payroll and hourly punch data for the putative class, all of  
21 which was used to prepare a damage analysis. Counsel for each side interviewed numerous witnesses,  
22 and Defendant obtained numerous declarations from employee witnesses. Plaintiffs’ counsel and its staff  
23 spent hundreds of hours reviewing the payroll information and documents that had been produced by  
24 Defendant in order to analyze the claims and prepare for mediation.

25 7. On May 29, 2015, the parties participated in an all-day mediation with an experienced  
26 mediator, Mr. Jeffrey Krivis, in downtown San Francisco. Upon completion of the mediation session,  
27 the parties continued to negotiate the specific terms of a long-form settlement. Finally, on July 17, 2015,  
28 the parties executed the Stipulation of Class Action Settlement and Release (“Settlement”), which was

1 presented to the Court for preliminary approval.

2 8. In negotiating the Settlement, I have very carefully considered the risks of further  
3 litigation. I have also carefully considered the expenses involved in further litigation, the potential  
4 recovery to the members of the Class if the case were fully litigated through trial, and the probability of  
5 any recovery for members of the Class being delayed in the event of a successful trial outcome by the  
6 taking of an appeal. After a careful analysis of all of the relevant factors, I have formed and now hold  
7 the opinion that the terms and conditions embodied in the Settlement are fair, reasonable, and equitable;  
8 that they represent a very good result; and that the risks and delay of further litigation likely outweigh  
9 the potential benefits that might derive from further litigation.

10 9. On August 21, 2015, the Honorable Diane M. Price entered an Order Granting  
11 Preliminary Approval of Class-Action Settlement. (See August 21, 2015, Order Granting Preliminary  
12 Approval of Class-Action Settlement (“Preliminary Approval Order”) at ¶ 1 (“The Court hereby  
13 preliminarily approves the Settlement as being within the range of possible approval and as disclosing  
14 no grounds to doubt its fairness.”).)

15 10. According to the Claims Administrator, as of October 23, 2015, 411 valid Claim forms  
16 were received by the Claims Administrator, which represents 42.43% of the entire class. In my  
17 experience, this is a very high participation rate for an employment class action, and there still remains  
18 one more week in the claims period. Based on the current participation rate, the estimated average  
19 recovery is \$513.38, which is nearly 20% higher than we estimated when Plaintiffs filed the motion for  
20 preliminary approval of class action settlement. This is a very favorable recovery for participating class  
21 members, especially in light of the challenges inherent in certifying this case for class-wide treatment.

22 11. As of the filing of this Motion, it is my understanding that no objections have been  
23 received by the Claims Administrator or any of the parties to this action. Additionally, I understand  
24 only one individual submitted a request for exclusion from the settlement.

25 12. In order to allow all postmarked Claims to be received and processed, the Claims  
26 Administrator will file a Supplemental Declaration with the Court on November 16, 2015, and I will  
27 lodge an updated Proposed Order that contains final information regarding the number of valid Claims,  
28 requests for exclusion and objections that were timely received.

13. This settlement has been received very favorably by the members of the settlement class. It is extraordinary in a case of this size to have no objections and only one opt out. The named Plaintiffs, who have actively participated in the litigation of this matter, support the settlement and request that the Court grant final approval of the class-action settlement. Attached hereto as Exhibits 1 and 2 are the Declarations of Coral McQueen and Felicia Trevino in Support of Plaintiffs' Motion for Final Approval of Class-Action Settlement.

I have read the foregoing, and the facts set forth therein are true and correct of my own personal knowledge.

Executed October 26, 2015, in the County of Marin, State of California.



David S. Harris

1 **PROOF OF SERVICE**

2 I, J. Michael Solano, am a paralegal for the firm representing Plaintiffs herein, I am over the age of  
3 eighteen years, and not a party to the within action. My business address is North Bay Law Group, 116  
4 E. Blithedale Avenue, Suite 2, Mill Valley, California 94941.

5 On October 26, 2015, I served the within document(s):

6 **DECLARATION OF DAVID HARRIS IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL  
7 APPROVAL OF CLASS-ACTION SETTLEMENT**

8 I caused such document to be delivered by hand in person to:

9 N/A

10 I caused such document to be delivered by e-mail or regular mail:


11 N/A

12 I am readily familiar with the Firm's practice of collection and processing correspondence for mailing.  
13 Under that practice, the document(s) would be deposited with the U.S. Postal Service on that same day  
14 with postage thereon fully prepaid in the ordinary course of business, addressed as follows:

15 Mark Posard  
16 GORDON & REES LLP  
17 275 Battery Street, Suite 2000  
18 San Francisco, California 94111

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

20 Executed on October 26, 2015, at Mill Valley, California.

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J. Michael Solano

# ***EXHIBIT 1***



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15 Attorneys for Plaintiffs  
16 CORAL MCQUEEN and FELICIA TREVINO

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF NAPA

CORAL MCQUEEN and FELICIA  
TREVINO , individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

ODD FELLOWS HOME OF  
CALIFORNIA, a California corporation,  
and DOE 1 through and including DOE  
100,

Defendants.

Case No. 26-64176

**DECLARATION OF CORAL MCQUEEN IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF CLASS-ACTION  
SETTLEMENT**

*Assigned to the Honorable Diane M. Price*

Date: November 19, 2015

Time: 8:30 a.m.

Place: Dept. F

1 Coral McQueen declares under penalty of perjury as follows:

2 1. I make this Declaration in Support of Plaintiffs' Motion for Final Preliminary Approval of Class-  
3 Action Settlement. If sworn as a witness, I could competently testify to each and every fact set forth  
4 herein from my own personal knowledge.

5 2. Defendant Odd Fellows Home of California ("Odd Fellows") employed me from 2004 to 2006  
6 and from March 2007 to January 28, 2014, as a hourly Certified Nursing Assistant in the Assisted  
7 Living department in Defendant's Meadows facility, which is located at 1800 Atrium Parkway, Napa,  
8 California 94559, County of Napa.

9 3. In connection with this lawsuit, I feel as though I am a good representative of others who have  
10 worked for Odd Fellows. I have spent a tremendous amount of time working with my attorneys on our  
11 case. My main concern is that all employees be treated fairly. As a class representative, I understand  
12 that I will continue to act as a representative of other, unnamed class members and that, as such a  
13 representative, I owe a duty of good faith to the unnamed class members and I will not act just in my  
14 own self-interest.

15 4. I believe I am similarly situated with the potential members of the class in that, like me: (a) the  
16 potential members of the class were employed by Odd Fellows as hourly employees at the Napa,  
17 California and Saratoga, California facilities; (b) the potential members of the class were not all  
18 routinely provided with timely meal and rest breaks; (c) the potential members of the class were not  
19 provided with paystubs that contain all of the information required under California law; and (d) as a  
20 result of Odd Fellow's employment practices, the potential class members have been damaged in that  
21 they have not received timely payment in full of earned wages.

22 5. My interest in prosecuting the lawsuit is to secure compensation for all of the members of the  
23 class on account of Odd Fellow's failure to comply with California labor laws. I have not been  
24 promised any special monetary reward or treatment for acting as a class representative. I have no  
25 interest adverse to the members of the class as a whole and I believe that my individual claims are  
26 typical of the claims of the members of the class as a whole.

27 6. I have been advised by my attorneys that as of October 23, 2015, there have been no objections  
28 to the settlement and only one member has opted-out of the settlement, both of which indicate

1 widespread approval of the settlement by my fellow class members. I have also been advised that with  
2 one week remaining in the claims period, more than 42% of the class has already opted-in to the  
3 settlement. My attorneys have advised me that this is a very favorable participation rate for a class  
4 action settlement. All of the fellow class members with whom I have spoken have confirmed that they  
5 are pleased with the settlement, appreciate the fact that we brought this lawsuit on their behalf and they  
6 all intend to participate in the settlement.

7 7. I understand that my fiduciary obligations to the class will continue until all settlement  
8 procedures are concluded and the settlement funds are distributed to the class members. I intend to  
9 continue to take an active part in the litigation and to continue to participate in all settlement procedures.  
10

11 I have read the foregoing and the facts set forth herein are true and correct of my own personal  
12 knowledge.  
13

14 Executed on October 23, 2015, in Napa, California.  
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17 Coral McQueen  
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# ***EXHIBIT 2***

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15 Attorneys for Plaintiffs  
16 CORAL MCQUEEN and FELICIA TREVINO

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF NAPA

CORAL MCQUEEN and FELICIA  
TREVINNO , individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

ODD FELLOWS HOME OF  
CALIFORNIA, a California corporation,  
and DOE 1 through and including DOE  
100,

Defendants.

Case No. 26-64176

**DECLARATION OF FELICIA TREVINO IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF CLASS-ACTION  
SETTLEMENT**

*Assigned to the Honorable Diane M. Price*

Date: November 19, 2015

Time: 8:30 a.m.

Place: Dept. F

1 Felicia Trevino declares under penalty of perjury as follows:

2 1. I make this Declaration in Support of Plaintiffs' Motion for Final Preliminary Approval of Class-  
3 Action Settlement. If sworn as a witness, I could competently testify to each and every fact set forth  
4 herein from my own personal knowledge.

5 2. Defendant Odd Fellows Home of California, a California corporation ("Odd Fellows") has  
6 employed me from December 2012 to the present as an hourly Certified Nursing Assistant in the  
7 Assisted Living and Memory Care departments in Defendant's Meadows facility, which is located at  
8 1800 Atrium Parkway, Napa, California 94559, County of Napa.

9 3. In connection with this lawsuit, I feel as though I am a good representative of others who have  
10 worked for Odd Fellows. I have spent a lot of time working with my attorneys on our case. My main  
11 concern is that all employees be treated fairly. As a class representative, I understand that I will  
12 continue to act as a representative of other, unnamed class members and that, as such a representative, I  
13 owe a duty of good faith to the unnamed class members and I will not act just in my own self-interest.

14 4. I believe I am similarly situated with the potential members of the class in that, like me: (a) the  
15 potential members of the class were employed by Odd Fellows as hourly employees at the Napa,  
16 California and Saratoga, California facilities; (b) the potential members of the class were not all  
17 routinely provided with timely meal and rest breaks; (c) the potential members of the class were not  
18 provided with paystubs that contain all of the information required under California law; and (d) as a  
19 result of Odd Fellow's employment practices, the potential class members have been damaged in that  
20 they have not received timely payment in full of earned wages.

21 5. My interest in prosecuting the lawsuit is to secure compensation for all of the members of the  
22 class on account of Odd Fellow's failure to comply with California labor laws. I have not been  
23 promised any special monetary reward or treatment for acting as a class representative. I have no  
24 interest adverse to the members of the class as a whole and I believe that my individual claims are  
25 typical of the claims of the members of the class as a whole.

26 6. I have been advised by my attorneys that as of October 23, 2015, there have been no objections  
27 to the settlement and only one member has opted-out of the settlement, both of which indicate  
28 widespread approval of the settlement by my fellow class members. I have also been advised that with

1 one week remaining in the claims period, more than 42% of the class has already opted-in to the  
2 settlement. My attorneys have advised me that this is a very favorable participation rate for a class  
3 action settlement.

4 7. I am a current employee at Odd Fellows and I have spoken with many co-workers about our  
5 lawsuit and the settlement. All of the fellow class members with whom I have spoken have confirmed  
6 that they are pleased with the settlement, appreciate the fact that we brought this lawsuit on their behalf  
7 and they all intend to participate in the settlement.

8 8. I understand that my fiduciary obligations to the class will continue until all settlement  
9 procedures are concluded and the settlement funds are distributed to the class members. I intend to  
10 continue to take an active part in the litigation and to continue to participate in all settlement procedures.

11  
12 I have read the foregoing and the facts set forth herein are true and correct of my own personal  
13 knowledge.

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15 Executed on October 23, 2015, in Napa, California.

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18 Felicia Trevino  
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