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9 *Attorneys for Plaintiff KURT CASADINE as an individual and on behalf of all similarly situated employees*

10
11 **IN THE UNITED STATES DISTRICT COURT**
12
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 KURT CASADINE and RONALD
15 KROENIG on behalf of themselves and
16 all others similarly situated,

17 Plaintiffs,

18 vs.

19 MAXIM HEALTHCARE SERVICES,
20 INC., a Maryland Corporation and
21 DOES 1 through 100, inclusive,

22 Defendants.

Case No.: CV 12-10078-DMG (CWx)

Honorable Dolly M. Gee

**DECLARATION OF JOSE GARAY IN
SUPPORT OF FINAL APPROVAL OF
CLASS ACTION SETTLEMENT,
CLASS ENHANCEMENT AWARD,
AND ATTORNEYS' FEES AND
COSTS**

Hearing Date: September 18, 2015

Hearing Time: 11:00 a.m.

Complaint Filed: October 24, 2012

ADDITIONAL COUNSEL:

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DECLARATION OF JOSE GARAY

I, Jose Garay, declare as follows:

1. I am the principal owner of JOSE GARAY, APLC counsel of record for Plaintiff KURT CASADINE and the putative class in the above referenced consolidated matter *Kurt Casadine v. Maxim Healthcare Services, Inc.*, Case No. CV 12-10078-DMG (CWx). I am duly admitted to practice before the United States District Court, Central District of California. The following facts stated herein are true and correct to the best of my knowledge, and if called to testify I could and would competently testify thereto.

2. This declaration is made in support of Plaintiff Kurt Casadine’s (hereinafter “Casadine” or “Plaintiff”) Motion for Final Approval of Class Action Settlement, Class Enhancement Award, and Attorneys’ Fees and Costs.

QUALIFICATIONS OF CLASS COUNSEL

3. I graduated from Stanford University in May 1989. I obtained my J.D. from Southern Methodist University in May 1998. I was admitted to the California State Bar in February 1999. In approximately 2001, I focused my practice exclusively in employment wage and hour class litigation. Since the inception of my law firm, I have represented individuals exclusively in all wage related matters. I successfully represented individuals in DLSE filings and civil court. As a result, I transitioned into class actions with a broad and in-depth experience affecting class based lawsuits. In 2002, I filed one of the first known class action cases under Labor Code section 226.7. My law firm was instrumental in the state-wide dispute over the private right of action debate as well as the debate over wage versus penalty. I successfully litigated both issues in state and federal court. In 2004, as a result of my extensive experience, California Rural Legal Assistance selected my law firm to assist them with class litigation affecting migrant workers. I have been asked to sit on class action panels on numerous occasions, I have been asked to act as mediator, law professors have requested I speak on class action issues, ethics issues and damage analysis, and I have written numerous articles tailored to high tech employees.

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1 4. Since the time my law firm transitioned one hundred percent (100%) into wage
2 and hour class actions, numerous attorneys who have filed wage and hour class actions have
3 sought the assistance of my law firm either as co-counsel or of-counsel. Over the course of
4 almost a decade, I have prosecuted hundreds of wage and hour class actions, including many
5 with the same issues presented in the instant related matters.

6 5. In the last decade, I have litigated hundreds of class actions involving the same or
7 similar issues. The following is a sample of cases that were certified and in which I was
8 appointed class counsel (either as lead counsel or co-counsel):

- 9 • GRAHAM V. DST OUTPUT WEST, LL, ET AL., EDCSC NO. PC 2008 0109
10 [Wage and Hour Class Action];
- 11 • CANALE v. AUTO NATION ET AL., LASC NO. BC 323890 [Joint
12 Employer Wage And Hour Class Action Resulting In Summary Judgment In
13 Favor Of Defendant];
- 14 • SARKISIAN V. SYMANTEC CORPORATION. ET AL., LASC NO. BC
15 423476 [Wage and Hour Class Action];
- 16 • CLAUDIA SHEPHERD AND DELFINA GARCIA V. AYRES GROUP, ET
17 AL., 30-2010-00372924 30-2010-00404619 [Alleging that defendant failed to
18 provide meal periods and rest breaks under California law class action];
- 19 • NAVA V. CHAPMAN CARE, ET AL., OCSC 30-2010-00413245 [Alleging that
20 defendant failed to provide meal periods and rest breaks under California law
21 class action];
- 22 • VAZQUEZ V. MARRIOTT INTERNATIONAL, INC. ET AL. OCSC 30-2010-
23 00396748-CU-OE-CXC [Alleging that defendant failed to provide meal periods
24 and rest breaks under California law class action];
- 25 • SANDOVAL, JUAN JOSE, ET AL. VS. ADVANCED DYNAMIC
26 SOLUTIONS, INC., OCSC 30-2010-00395127-CU-OE-CXC [Alleging that
27 defendant failure to provide meal periods, rest periods and overtime];
- 28 • O 'FLYNN V. GOLFSMITH OCSC 30-2009-00180164-CU-OE-CXC [Alleging
that defendant failed to provide meal periods, rest periods and overtime
compensation];

- 1 • ESPINOZA V. BIG LOTS STORES INC., ET AL., VCSC NO.CIV 236538
2 [Alleging that defendant failed to provide rest breaks under California law class
3 action];
- 4 • PERALTA, ET AL. VS. B&V ENTERPRISES OCSC 30-2010-00405905-CU-
5 OE-CXC [Alleged failed to pay wages for off the clock time, meal and rest period
6 violations];
- 7 • PEREZ V. EL TORITO RESTAURANTS, INC., ET AL., LASC NO. NC
8 036649 [Alleging that defendant failure to provide meal periods, rest periods and
9 overtime compensation];
- 10 • CULBERTSON VS. IKEA ET AL., ACSC NO. RG07348854 [Alleging that
11 defendant failed to provide meal periods and rest breaks under California law
12 class action];
- 13 • CORBIN V. LANDRY'S RESTAURANTS ET AL., LASC NO. BC380713
14 [Alleging that defendant failed to provide meal periods, rest periods and overtime
15 compensation];
- 16 • ABRAHAM VEGA V. DOMINO'S PIZZA CALIFORNIA LLC. ET AL., OCSC
17 NO. 03 CC00203[Alleging that defendant failed to provide meal periods and rest
18 breaks under California law class action];
- 19 • BERTHA MERCADO V. GATE GOURMET, INC., ET AL., UNITED STATES
20 DISTRICT COURT No.CV-07-02305-JHN(CWx) [Wage and Hour Class Action,
21 settlement of two subclasses alleging failure to provide lawful meal and rest
22 periods];
- 23 • DELLMORE V. TOYS 'R' US ACSC RG07306616 [Alleged failed to pay wages
24 for off the clock time, meal and rest period violations];
- 25 • MENDOZA V. PANDA EXPRESS LASC BC 371019 [Alleged Defendant failed
26 to provide meal periods or compensation].
- 27 • GALAVIS V. PATINA GROUP LASC BC3755225 [Alleged Defendant failed to
28 provide meal periods or compensation].
- GIDINO V. MCGRATH RENT CORP., ET AL., ACSC VG09446874 [Alleging
that defendant failed to provide meal periods and rest breaks under California law
class action];
- GOMEZ, ET AL. V. ADRIANA'S INSURANCE SERVICES, INC., ET AL.
SCSB CIVRS 806612 [Alleging that defendant failed to provide meal periods and
rest breaks under California law class action];

- 1 • BRIAN JOHANSON V. HOME LOAN CENTER OCSC CASE NO: 07CC01405
2 [Alleging that defendant failed to provide meal periods, rest periods and
overtime];
- 3 • DAVID O'FLYNN V. WORLDWIDE GOLF ENTERPRISES, INC., ET AL.
4 OCSC 07CC01393 [Alleging that defendant failed to provide meal periods, rest
5 periods and overtime];
- 6 • ARAVENA V. VMWARE INC., ET AL., OCSC NO. 07CC01368
[Misclassification class action for software engineers];
- 7 • KAREN ROBERTS V. PALM, INC., ET AL., SCSC NO. 1-10 CV 161497
8 [Misclassification of test engineers alleging that defendant misclassified test
9 engineers as exempt];
- 10 • RICARDO ARAVENA V. CISCO SYSTEMS. ET AL., OCSC NO. 07CC01367
[Misclassification class action for software engineers];
- 11 • CHAN V. PAYPAL, INC. V. 1-10-CV-168947 [Misclassification class action
12 for software engineers and related positions in multiple job families alleging that
13 defendant misclassified software engineers as exempt]
- 14 • VU V. EBAY, INC. 1-10-CV-167040 [Misclassification class action for
15 software engineers and related positions in multiple job families alleging that
16 defendant misclassified software engineers as exempt];
- 17 • JOHN THOMAS v. COGNIZANT TECHNOLOGY SOLUTIONS U.S.
18 CORPORATION, UNITED STATES DISTRICT COURT NO. CV 11-1123
JST [Misclassification];
- 19 • LOPEZ v. WARE DISPOSAL, INC., Case No.: 30-2010-00405307-CU-OW-
20 CXC [Meal and Rest Period Class Action].
- 21 • BARAJAS v. BEST BRANDS CORP, SBSC CASE NO. CIVDS
1014454[Wage And Hour Class Action];
- 22 • GERARDO ORTEGA AND JAIME BOTELLO v. CR&R WASTE
23 SERVICES LASC NO. BC414624 [Meal and Rest Period Class Action].
- 24 • MEDINA v. IDS USA WEST, INC CASE NO.:CIVRS1111028 Wage And
25 Hour Class Action];

26 **ATTORNEYS' FEES AND COSTS**

27 6. It is my professional opinion that the proposed Settlement reached by the Parties
28 is fair, reasonable and adequate and is in the best interest of the Plaintiff and the class members

1 in light of the facts and circumstances specific to this case, including the risk of significant delay
2 and defenses asserted by Defendant. I believe that this settlement provides the class members
3 with the full amount for all wage claims, and the settlement is a reasonable value of the penalty
4 claims, taking into consideration the risks involved in continued litigation.

5 7. The hours worked by JOSE GARAY, APLC total not less than 33.22 hours.
6 These hours, multiplied by my hourly rate of \$600.00, make for a conservative lodestar of
7 \$19,900.00. Attached hereto as Exhibit A is a true and correct copy of my detailed billing report
8 for the hours worked.

9 8. My hourly rate of \$600.00 multiplied by the hours spent on this case, coupled
10 with the significant hours of co-counsel Mahoney Law Group, APC, equals an amount far in
11 excess of the agreed-upon and requested attorneys' fee amount of \$210,000.00, and presents the
12 class with a significant benefit.

13 9. Attached hereto as Exhibit B is a true and correct copy of the summary of costs
14 incurred by JOSE GARAY, APLC in the amount of \$6,077.23.

15 10. For the foregoing reason, I respectfully request that the Court issue an Order
16 granting final approval of the settlement in the instant matter.

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18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on August 6, 2015 at Irvine, California.

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21 _____
22 /s/ Jose Garay
23 Jose Garay, Esq.
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EXHIBIT A

DATE	TIME	ACTIVITY
9/18/2015	4.00	TRAVEL TIME TO AND FROM AND ATTEND FINAL FAIRNESS HEARING.
6/3/2015	0.33	REVIEW COURT'S REDLINE DOCUMENTS.
5/6/2015	1.83	FURTHER REVIEW AND FINAL EDITS TO PRELIMINARY MOTION AND RELATED DOCUMENTS AND NOTICE FORMS. FOLLOW UP WITH CO-COUNSEL REGARDING THE SAME.
4/29/2015	2.25	REVIEW AND EDIT PRELIMINARY MOTION AND RELATED DOCUMENTS AND NOTICE FORMS. FOLLOW UP WITH CO-COUNSEL REGARDING THE SAME.
4/9/2015	0.50	CONFERENCE WITH COUNSEL REGARDING A POTENTIAL RELATED CASE. REVIEW.
12/8/2014	1.25	REVIEW OPPOSITION TO CERTIFICATION MOTION. WESTLAW RESEARCH ON CITED AUTHORITY. FOLLOW UP WITH CO-COUNSEL REGARDING THE SAME.
5/19/2014	1.00	REVIEW EX PARTE APPLICATION. REVIEW AND PROPOSE EDITS TO OPPOSITION CERTIFICATION MOTION.
5/1/2014	2.33	REVIEW AND EDIT CERTIFICATION MOTION. FOLLOW UP WITH CO-COUNSEL REGARDING THE SAME.
4/16/2014	0.50	REVIEW SUPPLEMENTAL DISCOVERY RESPONSES.
3/3/2014	0.33	REVIEW ECF ACTIVITY. FOLLOW UP WITH CO-COUNSEL REGARDING THE SAME.
2/26/2014	0.75	REVIEW SUPPLEMENTAL DISCOVERY RESPONSES.
2/18/2014	1.50	REVIEW AND EDIT EX PARTE APPLICATION. CONFERENCE WITH CO-COUNSEL AND EMAIL REGARDING THE SAME.
1/28/2013	1.50	EDIT AND REVIEW RULE 26(f) REPORT.
1/16/2013	0.33	CONFERENCE WITH CO-COUNSEL.
1/10/2013	0.50	REVIEW AND EDIT INITIAL DISCLOSURES.
12/9/2012	0.50	RESEARCH DBA ISSUE.
12/6/2012	0.83	REVIEW ECF FILINGS.
12/3/2012	0.75	REVIEW ECF FILINGS.
12/2/2012	1.33	CONFERENCE WITH COMPETING CASE COUNSEL. FOLLOW UP EMAILS WITH CO-COUNSEL REGARDING THE SAME. REVIEW COMPETING CASE COMPLAINT AND DOCUMENTS PROVIDED BY COUNSEL.
11/27/2012	1.33	EMAIL WITH CO-COUNSEL REGARDING AMENDMENT AND REMOVAL.

11/27/2012	1.00	REVIEW REMOVAL.
11/26/2012	0.50	REVIEW ANSWER.
11/19/2012	0.83	REVIEW AND RESEARCH JUDGE ASSIGNMENT.
11/15/2012	0.50	REVIEW ORDER AND FOLLOW UP WITH CO-COUNSEL.
10/22/2012	1.00	EDIT COMPLAINT.
10/17/2012	4.75	PREPARE FIRST DRAFT OF COMPLAINT.
10/14/2012	1.00	REVIEW EVIDENCE.

<u>RATE</u>	<u>TOTAL TIME</u>	<u>TOTAL FEES</u>
\$600.00	33.22 hours	\$19,900.00

EXHIBIT B

#3591

Jose Garay, APLC

Transaction Detail By Account**All Transactions**

2:58 PM

08/05/15

Accrual Basis

Type	Date	Num	Source Name	Name	Memo	Amount	Balance
Legal Expenses							
Litigation Fees							
Filing Fees							
Bill	10/25/2012	7179374	One Legal LLC	Maxim		1,514.95	1,514.95
Bill	10/31/2012	57011	First Legal	Maxim	Legal Fees	108.18	1,623.13
Bill	11/09/2012	7180702	One Legal LLC	Maxim		37.95	1,661.08
Bill	11/15/2012	7181252	One Legal LLC	Maxim		41.20	1,702.28
Bill	12/10/2012	7183183	One Legal LLC	Maxim		24.95	1,727.23
Bill	08/23/2013		First Mediation Corp	Maxim	mediation- Maxim	4,350.00	6,077.23
Total Filing Fees						6,077.23	6,077.23
Total Litigation Fees						6,077.23	6,077.23
Total Legal Expenses						6,077.23	6,077.23
TOTAL						6,077.23	6,077.23