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13 Attorneys for Plaintiff Eileen Staats, on behalf of
14 herself, and all others similarly situated (“the Class”)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

EILEEN A. STAATS, on behalf of herself and
all others similarly situated,

Plaintiffs,

v.

CITY OF PALO ALTO; and DOES 1 through
100, inclusive,

Defendant.

Case No. 115-CV-284956

Assigned for all Purposed to Hon. Brian Walsh

**DECLARATION OF THOMAS S.
SLOVAK IN SUPPORT OF MOTION
FOR ATTORNEYS’ FEES, COSTS AND
PLAINTIFF INCENTIVE AWARD**

Action Filed: August 17, 2015

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DECLARATION OF THOMAS S. SLOVAK

I, THOMAS S. SLOVAK, declare:

1. I am now of counsel to the law firm of Slovak Baron Empey Murphy & Pinkney, LLP. I am an attorney licensed to practice in the State of California and admitted to practice before this Court. I am counsel of record for the Class and was appointed as Class Counsel by this Court. I make this declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Costs and Plaintiff Incentive Award. I actively participated in the litigation of this action. Except as expressly stated, I have personal knowledge of the facts set forth below and, if called as a witness, could and would testify accurately to their veracity.

The Work Undertaken By Counsel

2. This action was prosecuted by the attorneys of three firms: (i) Girardi and Keese (“GK”); (ii) Slovak, Baron, Empey, Murphey and Pinkney, LLP (“SBEMP”) and (iii) Steele Cooper Law (“SCL”) (collectively, “Class Counsel”). Class Counsel made all reasonable efforts to litigate this case in an efficient manner and work was divided among the three firms to avoid duplication of efforts, the majority of which was undertaken by lead counsel at the time, GK. I have reviewed the declarations of Alexandra T. Steele and Stephen Schultz in Support of Plaintiffs’ Motion for Attorneys’ Fees and Cost and for Class Representative Service Awards that are filed concurrently herewith. I believe them to be accurate. In particular I can affirm that the work detailed by Stephen J. Schultz at paragraphs 5 and 6 is accurate and correctly summarize his activities undertaken as Class Counsel in this case.

Personal Experience and Qualifications as Class Counsel

3. On February 20, 2018, I executed my declaration filed in support of Plaintiff’s Motion for Class certification in which I provided substantial detail regarding my background and personal qualifications. Rather than repeat all those details, I summarize my experience as follows: I have actively practiced law since 1974, beginning with my employment with Best Best & Krieger LLP, where I became a partner in 1981. I came to head its litigation department

1 in the Palm Springs Branch of that firm, supervising 17 lawyers. I specialized in complex
2 business and employment litigation. During this period I came to work with Attorney Stephen J.
3 Schultz on certain matters. In January 1994, I started my present law firm with David L. Baron.
4 We now have approximately 30 lawyers. This year I became of counsel, given my more limited
5 commitment of time to the practice of law. I am an AV rated Martindale Hubbell lawyer, the
6 past President of the Desert Bar Association and an attorney that has handled dozens of
7 complex business and employment related cases. I have been lead or co-lead plaintiff's counsel
8 on numerous wage and hour class action cases, including actions filed against Bank of America,
9 Walgreens, Lowes, Rent-A-Center and Diamond Environmental Services. I have also acted as
10 defense counsel on class action matters.

11 4. In this case, our office did extensive research and investigation leading up to the
12 decision to file the present lawsuit, including a detailed background investigation on the history
13 of Palo Alto. The many hours spent on these efforts are not included in our fee request. We
14 also located a representative plaintiff who agreed to take on and accept the role and
15 responsibilities of a representative plaintiff. While our office had extensive class action
16 experience in the wage and hour field and we had recently hired another attorney with
17 consumer class action experience, given the nature of this case and the expected financial and
18 other burdens of such litigation, we contacted, met, and decided to join with GK to prosecute
19 the case. That firm had even greater experience handling class action cases and was prepared to
20 fund the expected, substantial costs associated with this type class action, which our firm was
21 not prepared to undertake.

22 **Risks Assumed By GK, SBEMP And SCL**

23 5. As noted, I have worked on this case since its inception. We brought the matter to
24 GK and met with attorneys Graham Lippsmith, then a senior attorney and class action
25 specialist, and Alexandra Steele, among others. We all evaluated whether to take the case as co-
26 counsel, and discussed our respective roles. We carefully weighed the potential benefits and
27 risks from committing to this litigation. It was expected that the City of Palo Alto would mount
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1 a vigorous defense to this action and that over-coming class certification, the duration of the
2 Class Period and liability in general would be challenging. It was understood that the case
3 would be both time consuming and difficult. As such, Class Counsel recognized that
4 representing Plaintiff and the proposed class in this case would require a significant investment
5 of time and money. It was agreed that GK would be acting as lead counsel and that firm, would
6 finance all costs associated with the lawsuit. Since Plaintiff was not willing or able to retain
7 counsel on an hourly basis to pursue this litigation, Class Counsel agreed to represent Plaintiff
8 and the proposed class on a contingency basis, meaning that we would only get paid for our
9 efforts if successful in recovering damages – either through settlement or judgment – from the
10 City. It was therefore understood that there was a very real possibility that we would never be
11 able to recoup our investment of time and money in this case. It was also understood that even
12 if we were ultimately able to recoup the investment of time and money, there would necessarily
13 be a delay (potentially of many years) between the time these expenditures were made by Class
14 Counsel and the time that we were paid. Because of the real risk of obtaining no payment (or
15 underpayment as now occurring), the certainty that payment (if any) would be delayed, and the
16 large investment of time and money that would likely be required, we would not have agreed to
17 represent Plaintiff and the proposed class on a pure hourly basis.

18 6. I have reviewed the Declaration of Alexandra Steele and can confirm that our office
19 undertook the same analysis regarding whether to join with her firm to prosecute the case. From
20 the initiation of this case, this has proven to be a vigorously contested matter. As matters
21 proceeded over the years, it was necessary to forego developing and working on other
22 contingency fee cases available to us.

23 7. Prevailing and ultimately collecting any recovery from the City was never
24 anywhere near certain, since this required satisfying a number of difficult thresholds (from
25 pleading and proof issues, to certification and establishing the extent of defendant’s liability at
26 trial). Accordingly, Class Counsels’ contingency risk supports the requested fees.

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1 at \$550 per hour. She only billed 3.0 hours. Thus, SBEMP has a lodestar calculation of \$75,240
2 (\$550 x 136.8 hours).

3 11. The amount of time stated on our time records is conservative and necessarily
4 understates the actual amount of time that SBEMP devoted to the prosecution of this case, in
5 my opinion. Again, I know I did not record, and we do not seek compensation for many
6 coordinating and consulting conversations, particularly between Mr. Schultz and me, as we
7 worked together over the years.

8 12. Pursuant to the fee-sharing agreements, the Settlement Agreement and the support
9 provided for the work done in this case, Plaintiff requests that the remainder of the \$425,000
10 costs and fee fund to be paid as follows:

- 11 a. 55% to the Bankruptcy Trustee on behalf of the Girardi Estate (\$116,802.95);
- 12 b. 25% to SBEMP (\$53,092.27);
- 13 c. 20% to Steele Cooper Law (\$42,526.18).

14 13. Finally, I agree with Attorney Steele that Plaintiff Eileen Staats was dedicated to
15 prosecuting this action throughout. I am informed that she contributed substantial time and
16 efforts to its cause, reviewing pleadings and discovery, searching for and producing documents,
17 preparing for and sitting for her deposition which took two full days, drafting multiple
18 declarations, working with class counsel to obtain records and locate information and lending
19 her name to the action, even though that meant that her name would be publicly associated with
20 the lawsuit and subject to public scrutiny. She kept the best interest of Class Members in mind
21 for its duration. For these reasons, we believe that the Court should award the requested
22 \$10,000 incentive award for her efforts in this case.

23 I declare under penalty of perjury under the laws of California that the foregoing is true
24 and correct and that this declaration was executed on August 9, 2021 in Marquette, Michigan.

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26 THOMAS S. SLOVAK
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 175 S. El Molino Ave., Suite 9, Pasadena, CA 91101.

On August 11, 2021, I served true copies of the following document(s) described as **DECLARATION OF THOMAS S. SLOVAK IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS AND INCENTIVE AWARD** on the interested parties in this action as follows:

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Attorneys for Defendant CITY OF PALO ALTO

XX BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address alex@steelecooperlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.