

1 JON A. TOSTRUD (199502)
2 TOSTRUD LAW GROUP, PC
3 1925 Century Park East
4 Suite 2125
5 Los Angeles, CA 90067
6 Telephone: 310/278-2600
7 Facsimile: 310/278-2640

8 Attorney for Plaintiff

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF LOS ANGELES

11 ESTUARDO ARDON, on behalf of himself
12 and all others similarly situated,

13 Plaintiff,

14 v.

15 CITY OF LOS ANGELES,

16 Defendant.

17 Case No. BC363959

18)
19) **DECLARATION OF JON TOSTRUD ON**
20) **BEHALF OF TOSTRUD LAW GROUP,**
21) **PC IN SUPPORT OF PLAINTIFF'S**
22) **APPLICATION FOR ATTORNEYS' FEES**
23) **AND REIMBURSEMENT OF**
24) **LITIGATION EXPENSES**

25) Date Action Filed: December 27, 2006
26) Trial Date: None Set

27) DATE: August 11, 2016
28) TIME: 10:00 a.m.
) DEPT: 307
) JUDGE: Hon. Amy D. Hogue

1 I, JON A. TOSTUD, declare as follows:

2 1. I am the founding member of the law firm of Tostrud Law Group, PC (“TLG”). I
3 submit this Declaration in support of my firm’s application for an award of attorneys’ fees in
4 connection with services rendered in this case, as well as the reimbursement of expenses incurred
5 by my firm in connection with this litigation.

6 2. My firm acted as plaintiff’s counsel in this class action and diligently worked in its
7 prosecution. The efforts taken in prosecuting this litigation over the course of the last ten years
8 are delineated in the Joint Declaration of Francis M. Gregorek and Nicholas E. Chimicles in
9 Support of Plaintiff’s Motion for Final Approval of Class Action Settlement, Attorneys’ Fees,
10 Reimbursement of Expenses and Payment of an Incentive Award. To avoid burdening this Court
11 with repetitive recitations, those efforts will not be repeated here.

12 3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the
13 amount of time spent by the partner and attorney of my firm who were involved in this litigation,
14 and the lodestar calculation based on my firm’s current billing rates. The schedule was prepared
15 from contemporaneous, daily time records regularly prepared and maintained by my firm, which
16 are available at the request of the Court.

17 4. The hourly rates for the partner and attorney in my firm included in Exhibit 1 are
18 the same as the regular current rates charged for their services in non-contingent matters and/or
19 which have been accepted and approved in other class action litigation.

20 5. The total number of hours expended on this litigation by my firm is 1,158.50 hours.
21 The total lodestar for my firm is \$615,285.00.

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

25 7. As detailed in Exhibit 2, my firm has incurred a total of \$5,722.30 in unreimbursed
26 expenses in connection with the prosecution of this litigation.

27
28

EXHIBIT 1

**Ardon Time Report
Tostrud Law Group, P.C.
January 2012 - June 2016**

CALIFORNIA

| | | | | |
|----------------|--------------|---------------|-------|---------------------|
| Jon Tostrud | Partner | \$600 | 626.4 | \$375,840.00 |
| Anthony Carter | Associate | \$450 | 532.1 | \$239,445.00 |
| | TOTAL | 1158.5 | | \$615,285.00 |

EXHIBIT 2

**Ardon Expense Report
Tostrud Law Group, P.C.
January 2012 - May 2016**

| | |
|----------------------------------|------------|
| Travel/Parking/Meals | \$4,283.05 |
| Telephone/Facsimile/Internet | \$350.00 |
| Postage/Delivery/Messenger | \$95.00 |
| Copying | \$265.00 |
| Court Fees/Reporters/Transcripts | \$254.25 |
| Computer Research | \$475.00 |
| TOTAL: | \$5,722.30 |

EXHIBIT 3

FIRM RESUME

Tostrud Law Group, P.C. was founded in 2012 with offices in Los Angeles and Minneapolis. We have a diversified legal practice, successfully representing plaintiffs in the areas of personal injury, securities and financial fraud, employment discrimination, unlawful employment practices including wage and hour disputes, product defect, consumer protection, antitrust and intellectual property, False Claims Act, and human rights. Our clients include individuals, classes or groups of persons, businesses, and public and private entities.

FIRM BIOGRAPHY:

JON A. TOSTRUD, Admitted to practice in the State of California and the State of Minnesota; U.S. District Court, Eastern District of California, 1999; U.S. District Court, Southern District of California, 1999; U.S. District Court, Northern District of California, 1999; U.S. District Court, Central District of California, 1998; *Education*: William Mitchell College of Law (J.D., 1994); State Bar of California; State Bar of Minnesota. California Bar Association.

In addition, while with the firm of Cuneo Gilbert & LaDuca, LLP, Mr. Tostrud headed the wage and hour practice and was appointed lead or co-lead counsel and achieved seven-figure and eight-figure settlements in several class and collective actions including:

Nerland v. Caribou Coffee, Inc. et al., Civil No. 05-1847 (United States District Court for the District of Minnesota). As co-lead class counsel, Cuneo Gilbert & LaDuca, LLP achieved a \$2.7 million settlement on behalf of retail store managers improperly classified as exempt from overtime. The class action suit first filed in 2005, charged Caribou with wrongfully denying overtime pay due to current and

former Caribou store managers. The lawsuit contended that Caribou misclassified its Store Manager position as exempt under the Minnesota and Federal Fair Labor Standards Acts to avoid paying overtime compensation. After nearly three years of litigation, the parties entered into a Settlement whereby, the Court granted final approval and Caribou Coffee Co. compensated participating class members.

Oliva, et al v. International Coffee and Tea. LLC d/b/a The Coffee Bean and Tea Leaf, et al., Case No. BC296435 (Superior Court of the State of California, County of Los Angeles). As co-lead class counsel, Cuneo Gilbert & LaDuca, LLP achieved a seven-figure settlement on behalf of retail store managers improperly classified as exempt from overtime, as well as hourly-paid barristas who were not compensated for their meal and rest breaks.

Lagunas v. Cargill Meat Solutions Corp., Case No. 10-cv-00220 (United State District Court for the Southern District of Iowa) (Final approval - 1/27/11 Cuneo Gilbert & LaDuca, LLP served as co-lead counsel in six-figure class settlement on behalf of meat processing plant employees who were not properly paid for donning and doffing activities performed before their shifts, during meal breaks and after their shifts.

Wineland, et al v. Casey's General Stores, Inc., No. 08 CV 00020 (United States District Court for the Southern District of Iowa) (Final approval 10/22/09). Cuneo Gilbert & LaDuca, LLP along with co-counsel was appointed lead counsel and achieved a seven figure settlement on behalf of a Section 216(b) collective class and Rule 23 class of over 60,000 cooks and cashiers for unpaid wages, including time worked before and after their scheduled shifts and while off-the-clock.

Cedeno et al v. Home Mortgage Desk. Corp. et al., No. 08 CV 1168 (United States District Court for the Eastern District of New York) (Final approval - 6/15/10). Cuneo Gilbert & LaDuca, LLP along with co-counsel was appointed lead

counsel and achieved a six figure settlement on behalf of a Section 216(b) collective class of loan officers deprived of overtime wages.

Jones, et al v. Casey's General Stores, Inc., No. 07 CV 400 (United States District Court for the Southern District of Iowa) (Final approval - 10/22/09). Cuneo Gilbert & LaDuca, LLP along with co-counsel was appointed lead counsel and achieved a seven figure settlement on behalf of a Section 216(b) collective class and Rule 23 class of more than 6,000 assistant store managers for unpaid wages, including time worked before and after their scheduled shifts and while off-the-clock.

ANTHONY M. CARTER, Admitted to practice in the Commonwealth of Virginia. *Education:* James E. Rogers College of Law at the University of Arizona (J.D., 1995); State Bar of Virginia; Virginia Bar association.

SETTLED CASES

- a. **Struett v. Susquehanna**, No. 5:15-cv-176 (United States District Court for the Eastern District of Pennsylvania). Tostrud Law Group, P.C. helped secure a settlement on behalf of a Section 216(b) collective class and Rule 23 class of residential mortgage bankers for misclassification violations and failure to properly pay overtime wages.
- b. **Pomphrett, et al. v. American Home Bank, et al.**, No. 1:12-cv-10330 (United States District Court for the District of Massachusetts). Tostrud Law Group, P.C. helped achieve a seven figure settlement of behalf of a Section 216(b) collective class and Rule 23 class of several hundred former loan officers for the failure to pay overtime wages.
- c. **Wylor –Wittenberg, et al. v. Metlife Home Loans, Inc**, No. 2:12-cv-00366 (United States District Court for the Eastern District of New York). Tostrud Law Group, P.C. helped achieve a seven figure settlement of behalf of a Section 216(b) collective class and Rule 23 class of current and former loan officers for the failure to pay overtime wages.

- d. **Ord, et al. v. First National Bank of Pennsylvania and F.N.B. Corp.**, No. 12-cv-00766 (United States District Court for the Western District of Pennsylvania). Tostrud Law Group, P.C. helped achieve a seven figure settlement of behalf of a Rule 23 class of several hundred account holders at First National Bank of Pennsylvania who were improperly charged overdraft fees on their checking accounts.
- e. **Molyneux, et al. v. Securitas Security Services, Inc.**, No. 4:10-cv-588 (United States District Court for the Southern District of Iowa). Tostrud Law Group, P.C. helped achieve a six figure settlement of behalf of a Section 216(b) collective class and Rule 23 class of hundreds of hourly paid security officers for failure to pay for off-the-clock work.
- f. **Hansen, et al v. Per Mar Security Services, et al**, No. 4:09-cv-00459 (United States District Court for the Southern District of Iowa). Tostrud Law Group, P.C. helped achieve a confidential settlement of behalf of a Section 216(b) collective class and Rule 23 class of hundreds of hourly paid security officers for back wages.

CASE PROFILES

Current Cases

- a. **Grahl v. Circle K Stores, Inc.**, No. 2:14-cv-305 (United States District Court for the District of Nevada). Tostrud Law Group, P.C., serves as co-counsel for a nationwide class of Store Managers employed by defendant Circle K Stores. Plaintiffs allege Circle K Stores knowingly misclassified its Store Managers as exempt employees and failed to properly pay them the required minimum and overtime wages. On August 26, 2015, the court granted Plaintiff's motion for conditional certification and agreed the case should proceed as a national class action. To date, more than 1,200 current and former store managers have joined the case seeking to recover back wages.
- b. **Suliaman v. Southwest Furniture**, No. 2:14-cv-1854 (United States District Court for the District of Nevada). Tostrud Law Group, P.C. serves as co-counsel and seeks to

represent a class of sales associates employed by Southwest Furniture Stores d/b/a Ashley Furniture Stores. Plaintiffs allege defendant Ashley Furniture knowingly misclassified its inside sales associates as exempt employees and failed to properly pay them the required overtime wages. Tostrud Law Group is seeking compensatory damages for a class of sales associates who worked in defendant's Nevada retail stores.

- c. **Ardon v. City of Los Angeles**, No. BC363959 (Superior Court for the County of Los Angeles). Tostrud Law Group, P.C., along with co-counsel, represents millions of Los Angeles city residents and businesses who paid taxes for telephone services that were improperly collected by the city. Tostrud Law Group is seeking refunds of taxes collected for telephone services on behalf of persons who paid telephone utility user taxes to the City of Los Angeles for residential landline, business landline, and mobile telephone services.
- d. **Rocha, et al. v. Gateway Funding**, No. 15-cv-00482 (United States District Court for the Eastern District of Pennsylvania). Tostrud Law Group, P.C. serves as co-counsel representing a nationwide class of inside sales loan officers who worked for defendant Gateway Funding. Plaintiff alleges Gateway Funding knowingly misclassified its inside loan officers as exempt employees and failed to properly pay them the required minimum and overtime wages. Plaintiff's motion to conditionally certify the class was granted on June 1, 2016, and Plaintiff's counsel is currently preparing to distribute notice to hundreds of putative class members. Tostrud Law Group is seeking compensatory damages for a nationwide class of inside sales loan officers.
- e. **Lane v. First National Bank of Layton**, No. 01-15-0005-5682 (American Arbitration Association). Tostrud Law Group, P.C. serves as co-counsel seeking to represent a nationwide class of current and former inside sales loan officers for alleged violations of the Fair Labor Standards Act and Maryland state labor laws. Plaintiff alleges Layton knowingly misclassified its inside loan officers as exempt employees and failed to

properly pay them the required minimum and overtime wages. Tostrud Law Group is seeking compensatory damages for a nationwide class of inside sales loan officers.

- f. **Gonzalez-Rodriguez v. Mariana’s Enterprises**, No. 2:15-cv-152 (United States District Court of the District of Nevada). Tostrud Law Group, P.C., serves as co-counsel seeking to represent a nationwide class of hourly employees of defendant Mariana’s Enterprises. Plaintiffs allege defendant failed to keep accurate time records for its employees and did not compensate plaintiffs properly for overtime hours worked in violation of the Fair Labor Standards Act. Tostrud Law Group is seeking compensatory damages and an injunction against defendant for its unlawful labor practices.
- g. **Granados v. Pepsico, Inc.**, No. 14-cv-01917 (United States District Court for the Central District of California). Tostrud Law Group, P.C., along with co-counsel, represent consumers who allege Pepsico deceptively omits in its advertising and marketing that its Pepsi One soft drink contains dangerous levels of the impurity 4-MEI, or 4-Methylimidazole. Tostrud Law Group seeks to represent all California consumers who purchased Pepsi One and were exposed to the substantial health risks associated with 4-MEI.
- h. **Telford v. Intellectual Capital Management, Inc., et al.**, No. 14-cv-0064 (United States District Court for the Eastern District of New York). Tostrud Law Group, P.C., along with co-counsel, represents plaintiffs who received unsolicited text messages from Muscle Maker Grill, a restaurant franchise with locations throughout the United States. Plaintiffs did not consent to receiving the text messages from Muscle Maker and were harmed as a result of defendants’ actions. Tostrud Law Group seeks to represent a nationwide class of persons who received one or more unauthorized text messages from or on behalf of Muscle Maker Grill.
- i. **Shadpour v. Facebook**, No. 14-cv-307 (United States District Court of the Northern District of California). Tostrud Law Group, P.C., serves as co-counsel seeking to

represent a nationwide class of individuals who sent, received, or posted private Facebook messages. Plaintiffs allege Facebook reviewed or scanned users' private messages in violation of express privacy agreements. Tostrud Law Group seeks actual and statutory damages on behalf of the putative class.

- j. Small v. University Medical Center of Southern Nevada**, No. 12-cv-395 (United States District Court for the State of Nevada). Tostrud Law Group, P.C. serves as co-counsel representing employees who allege defendant University Medical Center (“UMC”) failed to pay them properly for missed meal breaks under the Fair Labor Standards Act. After, the court granted Plaintiffs’ motion for conditional certification on June 14, 2013, approximately 600 current and former UMC employees agreed to join the case. After a granting Plaintiffs’ motion to compel in July 2013, the court appointed a Special Master to oversee the discovery process. The Special Master ultimately made numerous factual findings in support of Rule 23 class certification and concluded in a 78-page Report and Recommendation that defendant UMC had failed to identify, preserve, search for, collect and process relevant evidence. The case is currently stayed pending a decision by the court on the Special Master’s report.
- k. In Re Lithium Ion Batteries**, No. 13-MD-2420 (United States District Court for the Central District of California). Tostrud Law Group, P.C., serves as co-counsel representing consumers against Sony, Panasonic, Hitachi, LG Chem, Samsung, and Sanyo for allegedly conspiring to fix and raise the prices of lithium-ion rechargeable batteries in violation of United States antitrust laws. Plaintiffs allege that as a direct result of defendants’ anticompetitive conduct, consumers paid artificially inflated prices for lithium-ion rechargeable batteries.
- l. In Re: Hyundai and Kia Fuel Economy Litigation**, No. MDL 13-2424 (United States District Court for the Central District of California). Tostrud Law Group, P.C., along with co-counsel, represents Hyundai and Kia vehicle owners who allege the defendants

misstated fuel-economy figures for certain 2011-2013 vehicles. Plaintiffs allege Hyundai and Kia mislead consumers by advertising their cars' high highway mpg ratings, not the combined number, which was closer to the real-world fuel-economy and much lower than what was advertised.

- m. **Grodzitsky v. American Honda Motor Co.**, No. 12-cv-1142 (United States District Court for the State of Nevada). Tostrud Law Group, P.C., serves as co-counsel representing plaintiffs against American Honda for manufacturing and selling vehicles with allegedly defective window mechanisms. The side windows in the subject Honda vehicles move up and down by a device mounted inside the door frame known as a "window regulator." When the window regulator fails, the side window becomes inoperable and is often permanently stuck in the fully-open, closed, or partially open position, endangering occupants. Tostrud Law Group is seeking to represent a nationwide class of consumers who purchased or leased certain Honda vehicles that are equipped with the allegedly faulty window regulators.

In addition to the above representative cases, Tostrud Law Group, P.C. is currently prosecuting several other class and/or collective actions, including data breach and privacy cases, product liability and securities fraud class actions, and several antitrust cases against large companies.