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11 Attorneys for Plaintiff and the Class

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

16 FAITH BAUTISTA, Individually and on  
17 Behalf of All Others Similarly Situated,

18 Plaintiff,

19 vs.

20 VALERO MARKETING AND SUPPLY  
COMPANY,

21 Defendant.

) Case No. 3:15-cv-05557-RS

) CLASS ACTION

) DECLARATION OF RAFAEL  
) BERNARDINO, JR., FILED ON BEHALF  
) OF HOBSON, BERNARDINO & DAVIS,  
) LLP, IN SUPPORT OF APPLICATION FOR  
) AWARD OF ATTORNEYS' FEES AND  
) EXPENSES

22 ) Date: March 11, 2021  
) Time: 1:30 p.m.  
) Courtroom: 3 – 17th Floor  
) Judge: Hon. Richard Seeborg

1 I, RAFAEL BERNARDINO, JR., hereby declare and state as follows:

2 1. I am an attorney at law, duly admitted to practice law in the State of California and  
3 before this Honorable Court. I am a partner with the law firm of Hobson, Bernardino & Davis,  
4 LLP (the "Firm"), who are co-counsel of record for Plaintiff Faith Bautista ("Plaintiff") and one  
5 of the preliminarily appointed counsel for the Settlement Class in this Action. The facts stated  
6 herein are of my own personal knowledge and if called upon to testify as a witness, I could and  
7 would testify competently thereto. I am submitting this declaration in support of my Firm's  
8 application for an award of attorneys' fees and expenses/charges ("expenses") in connection with  
9 services rendered in the above-entitled action.

10 2. I am a 1984 graduate of the University of Southern California, Gould School of  
11 Law, where I was a member of the Law Review. Thereafter I clerked for The Honorable Manuel  
12 L. Real, then Chief Judge of the Central District of California. Thereafter, I was an Attorney-  
13 Advisor with the United States Department of Justice in Washington, D.C., and in private  
14 practice I have been a partner in law firms based in Los Angeles. I am a former Police  
15 Commissioner for the City of Los Angeles, and prior to that appointment, I was Pension  
16 Commissioner for the City of Los Angeles Fire and Police Pension Fund. Among other  
17 experience, along with the Dean of UC Berkeley School of Law, Erwin Chemerinsky, I am  
18 co-counsel for Petitioners in a series of cases in the United States District Court for the  
19 Central District of California, the Ninth Circuit Court of Appeals, and the United States  
20 Supreme Court styled *Independent Living Center of Southern California, et al., v. Richard*  
21 *Figueroa, Jr., Acting Director of Department of Health Care Services of the State of California*,  
22 Case No. 2:08-03315-CAS (MAN), and related cases ("ILC Litigation.") Among other things,  
23 the ILC Litigation resulted in the delivery of approximately \$3 billion in healthcare to 6.7  
24 million of the poorest and most health challenged Californians. See *Douglas v. Indep. Living*  
25 *Ctr. of S. Cal., Inc.*, 565 U.S. 606 (2012); *Indep. Living. Ctr. of S. Cal., Inc. v. Shewry*, 543  
26 F.3d 1047 (9th Cir. 2008); *Indep. Living. Ctr. of S. Cal., Inc. v. Shewry*, 543 F.3d 1050 (9th  
27 Cir.), cert. denied, 557 U.S. 920 (2009); *Indep. Living. Ctr. of S. Cal., Inc. v. Maxwell-Jolly*, 590  
28

1 *Inc.*, 565 U.S. 606 (2012); and *Indep. Living. Ctr. of S. Cal., Inc. v. Kent*, 909 F.3d 272 (9th Cir.  
2 2018). As such, I believe I have substantial experience litigating complex matters in federal court.

3           3.       The information in this declaration regarding the Firm's time and expenses is taken  
4 from time and expense printouts and supporting documentation prepared and/or maintained by the  
5 Firm in the ordinary course of business. I am the Partner who oversaw and/or conducted the day-  
6 to-day activities in the litigation and I reviewed these printouts (and backup documentation where  
7 necessary or appropriate) in connection with the preparation of this declaration. The purpose of  
8 this review was to confirm both the accuracy of the entries on the printouts as well as the necessity  
9 for, and reasonableness of, the time and expenses committed to this litigation. As a result of this  
10 review, reductions were made to both time and expenses in the exercise of billing judgment. As a  
11 result of this review and the adjustments made, I believe that the time reflected in the Firm's  
12 lodestar calculation and the expenses for which payment is sought as set forth in this declaration  
13 are reasonable in amount and were necessary for the effective and efficient prosecution and  
14 resolution of the litigation. In addition, I believe that the expenses are all of a type that would  
15 normally be charged to a fee-paying client in the private legal marketplace. All of this information  
16 is contained on our Firm Invoices regarding this matter, and are available for review by this  
17 Honorable Court upon request.

18           4.       The number of billable hours spent on this litigation by my Firm is 4819.70. A  
19 breakdown of the lodestar is provided in Exhibit A. The lodestar amount for attorneys' time based  
20 on the firm's current rates is \$3,422,425. The hourly rates shown in Exhibit A are the usual and  
21 customary rates set by the Firm for each individual. My Firm's lodestar total reflects that some of  
22 the billable hours recorded were listed as "No Charge" rather than our usual and customary hourly  
23 rates. Additionally, the Firm does not charge for clerical or administrative work, and no paralegal  
24 worked on this case. Accordingly, the Firm's lodestar for billable time is less than it would be if  
25 all billable hours were charged.

26           5.       My Firm, along with co-counsel, seeks combined attorneys' fees and expenses in  
27 the total aggregate amount of \$1,650,000, subject to Court approval. My Firm's expenses and  
28 charges, totaling \$11,472.74, are summarized by category in Exhibit B.

1           6.     The following is additional information regarding certain of these expenses:

2           (a)     Transportation, Hotels & Meals: \$10,982.30. In connection with the  
3 prosecution of this case, the Firm has paid for travel expenses to, among other things, appear at  
4 court proceedings in the United States District Court for the Northern District of California; meet  
5 with and interview witnesses; appear at mediations in the Northern District of California; and  
6 attend depositions of parties and other witnesses, including expert witnesses. The approximate  
7 date, destination and purpose of each trip is set forth in Exhibit C.

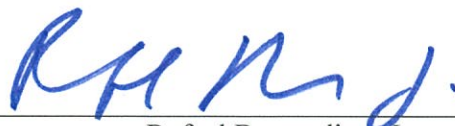
8           (b)     Photocopies: \$58.68. My Firm does not charge clients for copies made in-  
9 house; accordingly, no in-house copy charges are included herein. My Firm paid \$58.68 to outside  
10 copy vendors. A breakdown of these outside charges by date and vendor is set forth in Exhibit D.

11           (c)     Online Legal and Financial Research: \$11.35. My Firm does not charge  
12 clients for in-house computer assisted legal research or other internet usage. This category includes  
13 only payment to outside vendors such as PACER.

14           7.     The expenses pertaining to this case are reflected in the books and records of this  
15 Firm. These books and records are contemporaneously prepared from receipts and other  
16 documents and are an accurate record of the expenses.

17           8.     The identification and background of myself, my Firm and its partners is attached  
18 hereto as Exhibit E.

19           I declare under penalty of perjury, under the laws of the United States of America, that the  
20 foregoing is true and correct. Executed this 15<sup>th</sup> day of January, 2021, at Los Angeles, California.

21 

22 \_\_\_\_\_  
23 Rafael Bernardino, Jr.  
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25  
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on February 4, 2021, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ Stuart A. Davidson

STUART A. DAVIDSON (*pro hac vice*)

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**Mailing Information for a Case 3:15-cv-05557-RS Bautista v. Valero Energy Corporation et al****Electronic Mail Notice List**

The following are those who are currently on the list to receive e-mail notices for this case.

- **Jason Henry Alperstein**  
alperstein@kolawyers.com
- **Matthew James Balotta**  
mbalotta@rgrdlaw.com
- **Rafael Bernardino , Jr**  
rbernardino@hbdlegal.com
- **Ashley Brooke Vinson Crawford**  
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- **Eric Scott Dvoskin**  
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- **Kyle DeWitt Foltyn-Smith**  
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- **Robert Russell Hensler , Jr**  
bhensler@rgrdlaw.com
- **Jason A Hobson**  
jhobson@hbdlegal.com
- **Roxana Miller Pierce**  
rpierce@rgrdlaw.com,e\_file\_sd@rgrdlaw.com

**Manual Notice List**

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)

# **EXHIBIT A**

**EXHIBIT A**

*Faith Bautista v. Valero Marketing and Supply Company*, No. 3:15-cv-05557-RS  
HOBSON, BERNARDINO & DAVIS, LLP  
Inception through January 8, 2021

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Rafael Bernardino, Jr.	(P)	2928.80	750.00	\$2,063,775.00 <sup>1</sup>
Jason A. Hobson	(P)	263.80	750.00	\$196,425.00 <sup>2</sup>
Symeon K. Davis	(P)	186.30	750.00	\$138,750.00 <sup>3</sup>
Kenneth J. Melrose	(A)	23.50	750.00	\$17,625.00
Christopher R. Pantel	(A)	988.90	750.00	\$704,550.00 <sup>4</sup>
Ashton R. Watkins	(A)	126.30	750.00	\$94,725.00
Karen L. Dillon	(A)	302.10	750.00	\$226,575.00
<b><i>TOTAL</i></b>		<b><i>4819.70</i></b>		<b><i>\$3,422,425.00</i></b> <sup>5</sup>

(P) Partner

(A) Associate

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<sup>1</sup> 177.10 Hours billed at “No Charge.”

<sup>2</sup> 1.90 Hours billed at “No Charge.”

<sup>3</sup> 1.30 Hours billed at “No Charge.”

<sup>4</sup> 49.50 Hours billed at “No Charge.”

<sup>5</sup> 229.80 Hours billed at “No Charge.”



# **EXHIBIT B**

**EXHIBIT B**

*Faith Bautista v. Valero Marketing and Supply Company*, No. 3:15-cv-05557-RS  
HOBSON, BERNARDINO & DAVIS, LLP  
Inception through January 8, 2021

<b><i>CATEGORY</i></b>	<b><i>AMOUNT</i></b>
Transportation, Hotels & Meals <sup>6</sup>	\$10,982.30
Telephone, Facsimile	\$59.40
Postage	\$49.11
Outside Photocopies	\$58.68
Online Legal and Financial Research	\$11.35
Miscellaneous	\$311.90
<b>TOTAL</b>	<b>\$11,472.74</b>

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<sup>6</sup> Airfare (\$4,525.01); Meals (\$1,797.82); Ground Transportation (\$696.73); Hotel (\$3,576.74); Parking (\$386.00).

# **EXHIBIT C**

**EXHIBIT C***Faith Bautista v. Valero Marketing and Supply Company*, No. 3:15-cv-05557-RS  
HOBSON, BERNARDINO & DAVIS, LLP

Transportation, Hotels &amp; Meals: \$10,982.30.

<b>NAME<sup>7</sup></b>	<b>DATE</b>	<b>DESTINATION</b>	<b>PURPOSE</b>
Airfare	03/28/16	Boca Raton, Florida	Conference with co-counsel re litigation strategy
Hotel	03/28/16	Boca Raton, Florida	Conference with co-counsel re litigation strategy
Hotel	04/01/16- 04/02/16	San Francisco, California	Conference with client
Airfare	04/02/17	San Francisco, California	Deposition
Hotel	04/02/17	San Francisco, California	Deposition
Airfare	04/17/17	San Francisco, California	Deposition
Hotel	04/17/17	San Francisco, California	Deposition
Airfare	05/09/17	San Francisco, California	Deposition
Hotel	05/09/17	San Francisco, California	Deposition
Hotel	05/11/17	San Francisco, California	Deposition
Hotel	05/13/17	San Francisco, California	Deposition
Airfare	05/29/17	San Francisco, California	Deposition
Hotel	05/30/17	San Francisco, California	Deposition
Airfare	05/31/17	San Francisco, California	Deposition
Hotel	05/31/17	San Francisco, California	Deposition
Airfare	09/29/17	San Francisco, California	Court Appearance
Hotel	09/30/17	San Francisco, California	Court Appearance
Airfare	11/09/17	San Francisco, California	Court Appearance
Airfare	03/26/18	San Francisco, California	Mediation
Hotel	03/26/18	San Francisco, California	Mediation
Hotel	03/28/18	San Francisco, California	Mediation
Airfare	10/25/18	San Francisco, California	Court Appearance
Hotel	11/29/18	San Jose, California	Mediation
Airfare	10/29/19	San Francisco, California	Mediation
Meal <sup>8</sup>	03/28/16	Boca Raton, Florida	Conferences with co-counsel
Meal	03/29/16	Boca Raton, Florida	Conferences with co-counsel
Meal	04/01/16	San Francisco, California	Conferences with the client

<sup>7</sup> All costs were incurred by Attorney Rafael Bernardino, Jr.

<sup>8</sup> For purposes of convenience, all meals consumed on a given day are set forth as a single meal. Attorney Bernardino paid for the meal, and at various times, the meal was for him, the client and/or co-counsel or other persons involved in prosecuting Plaintiff's claims. Unless otherwise indicated, all meals occurred outside of Los Angeles County where the Firm is located.

<i>NAME<sup>7</sup></i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
Meal	04/02/16	San Francisco, California	Conferences with the client
Meal	04/02/17	San Francisco, California	Depositions
Meal	04/03/17	San Francisco, California	Depositions
Meal	04/04/17	San Francisco, California	Depositions
Meal	04/05/17	San Francisco, California	Deposition
Meal	04/17/17	San Francisco, California	Deposition
Meal	04/18/17	San Francisco, California	Deposition
Meal	04/30/17	Los Angeles, California	Conference with client
Meal	05/09/17	San Francisco, California	Deposition
Meal	05/10/17	San Francisco, California	Deposition
Meal	05/11/17	San Francisco, California	Deposition
Meal	05/13/17	San Francisco, California	Deposition
Meal	05/29/17	San Francisco, California	Deposition
Meal	05/30/17	San Francisco, California	Deposition
Meal	05/31/17	San Francisco, California	Deposition
Meal	09/28/17	San Francisco, California	Court Appearance
Meal	09/29/17	San Francisco, California	Court Appearance
Meal	11/09/17	San Francisco, California	Court Appearance
Meal	03/26/18	San Francisco, California	Mediation
Meal	03/27/18	San Francisco, California	Conference with client
Meal	10/25/18	San Francisco, California	Court Appearance
Meal	11/29/18	San Jose, California	Mediation
Meal	10/29/19	San Francisco, California	Mediation

# **EXHIBIT D**

**EXHIBIT D**

*Faith Bautista v. Valero Marketing and Supply Company*, No. 3:15-cv-05557-RS  
HOBSON, BERNARDINO & DAVIS, LLP

Outside Photocopies: \$58.68

<b><i>DATE</i></b>	<b><i>VENDOR</i></b>	<b><i>PURPOSE</i></b>
03/28/16	FedEx Kinkos	Conference with counsel
09/29/17	FedEx Kinkos	Court appearance
03/31/18	FedEx Kinkos	Documents for client
06/30/18	FedEx Kinkos	Documents for client
07/31/18	FedEx Kinkos	Documents for client
09/30/18	FedEx Kinkos	Documents for client

# **EXHIBIT E**



Rafael Bernardino, Jr., is a partner with the Law Firm of Hobson, Bernardino & Davis, LLP in Los Angeles, California. He is a Member of the State Bar of California and was former Police Commissioner for the City of Los Angeles.

Mr. Bernardino graduated from the University of Southern California in 1981 and from the University of Southern California, Gould School of Law in 1984, where he was a member of the Law Review. Upon graduation, Mr. Bernardino clerked for The Honorable Manuel L. Real, then Chief Judge of the United States District Court for the Central District of California.

After completion of his judicial clerkship, Mr. Bernardino joined the well-respected law firm of Adams, Duque & Hazeltine, and later was associated with the Wyman, Bautzer law firm. After completing several high-profile cases at the Wyman, Bautzer law firm (and its successor), Mr. Bernardino left private practice and became an Attorney Adviser in the United States Department of Justice Office of Intelligence Policy in Washington, D.C. During his tenure there, Mr. Bernardino advised two United States Attorneys General, the Hon. Edwin Meese and the Hon. Richard Thornburgh on matters of national security and intelligence policy.

Thereafter, Mr. Bernardino founded the Los Angeles office of Hornblower, Manning, Ward & Bernardino, P.C. The Hornblower law firm, headquartered in Texas, was a good match for Mr. Bernardino's burgeoning practice because Hornblower represented large energy companies, such as Koch Industries, Inc., and through his own efforts, Mr. Bernardino had become one of the most significant outside legal counsel to ARCO. Now a Partner with the law firm of Hobson, Bernardino & Davis, LLP, Mr. Bernardino has practiced as a trial lawyer in the areas of criminal law, securities law, professional liability, intellectual property and environmental law. The bulk of Mr. Bernardino's trial practice was in the area of complex business litigation and environmental law, representing both individuals and entities being investigated for, or charged with, violation of federal, state and local civil and criminal laws. As an attorney in private practice, Mr. Bernardino has represented significant private and public entities, including but not limited to, The Walt Disney Company, J-M Manufacturing Company, Pacific Gas & Electric Company, the Los Angeles Department of Water & Power, the Christian Broadcasting Network, Inc. and the Presbyterian Synod of California and Hawaii.

Mr. Bernardino is admitted to practice before all Courts in the State of California, including the United States District Courts for Central, Southern, Eastern and Northern Districts and the Ninth Circuit Court of Appeals. Additionally, in the course of his practice, Mr. Bernardino has been admitted to practice, *pro hac vice*, in state and federal courts in Texas, Michigan, Nevada and Kansas. Among other experience, Mr. Bernardino is co-counsel for Petitioners in a series of cases in the United States District Court for the Central District of California, the Ninth Circuit Court of Appeals, and the United States Supreme Court styled *Independent Living Center of Southern California, et al., v. Richard Figueroa, Jr., Acting Director of Department of Health Care Services of the State of California*, Case No. CV 08-3315-CAS (MAN), and related cases ("ILC Litigation.") Among other things, the ILC Litigation resulted in the delivery of approximately \$3 billion in healthcare to 6.7 million poor, sick and disabled Californians. See, *Douglas v. Indep. Lvg. Ctr. of S. Cal.*, 565 U.S. 606 (2012); *Independent Living Center of Southern California v. Shewry*, 543 F.3d 1047 (9th Cir. 2008);

*Independent Living Center of Southern California v. Shewry*, 543 F.3d 1050 (9th Cir.), cert. denied, 557 U.S. 920 (2009); *Independent Living Center of Southern California v. Shewry*, 590 F.3d 725 (9th Cir. 2009), vacated on other grounds sub. nom. *Douglas v. Independent Living Center of Southern California, Inc.*, 565 U.S. 606 (2012); *Independent Living Center of Southern California v. Maxwell-Jolly*, 572 F.3d 644 (9th Cir. 2009); and *Independent Living Center of Southern California v. Kent*, 909 F.3d 272 (9th Cir. 2018).

In addition to practicing law, Mr. Bernardino has been an Adjunct Professor and Guest Lecturer at Loyola Law School, Glendale College of Law, American Intercontinental University and Westwood College. Mr. Bernardino is also active in a variety of civic and local charitable organizations and was previously Commissioner of the Proposition “Q” Citizen Oversight Commission, responsible for the construction of Police, Fire and paramedic facilities in the City of Los Angeles. Additionally, Mr. Bernardino previously served as Commissioner on the Los Angeles Police Commission and as Commissioner to the Los Angeles Fire and Police Pension Board. Mr. Bernardino is fluent in Spanish; and, is active in a variety of charitable institutions supporting the University of Southern California, the City of Hope, the Filipino American Service Group, Last Chance for Animals, the Boys and Girls Club of Los Angeles and the Humane Society. Mr. Bernardino is a Member of the Federal Bar Association and the Mexican-American Bar Association. Mr. Bernardino is also a Member of the California Club and a participant in the Renaissance Weekend organization.