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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

ALISSA WHITNEY, an individual, on behalf of
herself, and on behalf of all persons similarly
situated,

Plaintiff,

vs.

FIVE J'S FAMILY ENTERPRISES L.P., a
California Limited Partnership; and Does 1
through 50, Inclusive,

Defendant.

Case No. CIVSB2129063

**DECLARATION OF ALISSA WHITNEY IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: November 1, 2023

Time: 9:00 a.m.

Judge: Hon. David S. Cohn

Dept.: 26

1 I, ALISSA WHITNEY, declare as follows:

2 1. I am over the age of eighteen, a California resident, Plaintiff and Proposed Class
3 Representative in the above-entitled matter. I submit this declaration in support of Plaintiff's Motion
4 for Final Approval of Class Action and PAGA Settlement and in support of Plaintiff's Motion for
5 attorneys' fees, costs, and service awards. I have personal knowledge of all the facts stated herein. I
6 could and would competently testify under oath to these facts in court if requested to do so.

7 2. I retained Class Counsel in June of 2021 and filed the lawsuit in October of 2021. I filed
8 the case on behalf of myself and a class of all persons who are or previously were employed by
9 Defendant in California and classified as non-exempt employees from the period beginning October 12,
10 2017 up to and including April 7, 2023.

11 3. I worked for Defendant as a non-exempt employee, paid on an hourly basis, and was
12 entitled to legally mandated meal and rest periods, minimum wages, and overtime compensation, in San
13 Bernardino County, during 2020.

14 4. I filed the case because I believed my rights as an employee were violated by Defendant
15 and also the rights of other employees that worked for Defendant. Among other claims, I believe
16 Defendant failed to pay for all time worked, failed to provide compliant meal and rest periods, failed to
17 furnish accurate itemized wage statements, failed to pay all wages when due and failed to reimburse
18 employees for mandatory business expenses.

19 5. Before I initiated the case as a plaintiff and Class Representative, I spoke at length with
20 my attorneys. We discussed my work experience and how company policies were applied to me and
21 other employees. I provided the attorneys with documents they requested. We reviewed the documents
22 together and asked and answered many questions regarding my experience working for Defendant, the
23 litigation process, and about class actions generally.

24 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
25 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
26 than merely seeking my individual claims substantially increased the risk to me. Those risks included
27 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
28 I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by

1 the attorneys and the Court because I needed to prove that I was an adequate class representative.
2 Further, I understood that I would lose some autonomy over my individual claims that I could not make
3 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
4 of the Settlement Class in mind.

5 7. I also understood that pursuing this litigation created a very public record of my grievances
6 with Defendant which produced the risk that a future employer could hold it against me that I sued a
7 former employer.

8 8. I also knew that I was making a sacrifice in that I could have pursued my claims only on
9 an individual basis, likely obtaining a recovery greater than the portion of the class settlement I stand to
10 receive from this settlement. My attorneys explained to me that the net settlement value of my individual
11 claims may be greater than my ultimate recovery from the net class settlement amount.

12 9. Notwithstanding these risks and sacrifices, I decided to go through with the case because
13 I believed violations occurred and most employees would not know what their rights are and even if
14 they did, they would be apprehensive to file a lawsuit against their employer for fear of retaliation.

15 10. During the lawsuit I communicated on a regular basis with my attorneys. I reviewed status
16 updates from my attorneys and court filings on a regular basis, and spoke to my attorneys on the phone,
17 because I wanted to keep up with developments in the case which I understood was one of my duties as
18 a class representative.

19 11. **Review and Approval of Settlement:** A mediation was held on February 7, 2023. Even
20 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
21 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
22 with my attorneys after the mediation. I was very satisfied with the terms of the settlement that was
23 agreed to by the parties. When the settlement papers were ready, I spoke with my attorneys and reviewed
24 the settlement agreement which I signed on May 15, 2023.

25 12. **Participation:** Since I retained Class Counsel approximately twenty-seven months ago, I
26 have been actively involved with this class action lawsuit performing the duties described above. While
27 I did not keep formal time records, I was in regular contact with my attorneys, attended hearings,
28 reviewed important court filings, and spent considerable time on the issues presented during the

1 litigation and in the settlement process. I estimate that I spent approximately 20 hours working on this
2 case.

3 13. Also, my attorneys explained to me that the settlement process involved a two-step review
4 by the Court to determine whether the settlement was fair before ordering that the settlement be funded
5 and paid. I knew this process also involved notifying all class members of the settlement terms and of
6 their rights to make a claim for their settlement share, to opt out of the settlement or to object to the
7 settlement.

8 14. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who
9 now stand to receive substantial monetary payments as a result of this case and settlement. I also believe
10 that the requested Class Representative Service Payment in the amount of \$10,000 from the settlement
11 is fair compensation for the (1) the work I performed, (2) the sacrifices made not pursuing this case
12 individually, and (3) the risks I undertook.

13 15. In light of all the time and effort I have spent on this case, the sacrifice I have made, the
14 risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's
15 costs in the event we did not win the case, and in light of the size of the settlement, I believe the request
16 for \$10,000 as a service award is fair and reasonable.

17 16. Further, I support my attorneys' application for a Class Counsel Award in the amount of
18 \$341,666.66 comprised of attorneys' fees equal to one-third (33.33%) of the Gross Settlement Amount
19 estimated to be at least \$316,666.66 and up to \$25,000 for actually incurred litigation expenses.
20

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct. Executed on Oct 3, 2023, at Twentynine Palms, California.
23

24 By: ALissa Whintey
25 ALISSA WHITNEY
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