

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Bevin Allen Pike (SBN 221936)
Bevin.Pike@capstonelawyers.com
3 Daniel Jonathan (SBN 262209)
Daniel.Jonathan@capstonelawyers.com
4 Trisha K. Monesi (SBN 303512)
Trisha.Monesi@capstonelawyers.com
5 CAPSTONE LAW APC
1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Kenneth Chiarito

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF MADERA

11 LI FAN, an individual, and KENNETH
12 CHIARITO, an individual, and on behalf of all
others similarly situated,

13 Plaintiffs,

14 vs.

15 HOME DEPOT U.S.A. INC., a Delaware
16 Corporation; and DOES 1-50, inclusive,

17 Defendants.
18
19
20

Case No. MCV084871

Assigned to The Honorable Brian W. Enos, Dept.
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**DECLARATION OF KENNETH CHIARITO
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF PAGA AND
CLASS ACTION SETTLEMENT**

Date: December 5, 2024
Time: 8:30 a.m.
Place: Department 45

Complaint Filed: March 30, 2021
Trial Date: Nonet Set

DECLARATION OF KENNETH CHIARITO

I, Kenneth Chiarito, hereby declare as follows:

1. I am over eighteen years old and unless the context indicates otherwise, I have personal knowledge of the following facts, and if called as a witness, I could and would testify competently to them. I am a named plaintiff in the above-captioned action, and a representative for the proposed Settlement Class. I make this declaration in support of the Motion for Preliminary Approval of Class Action and PAGA Settlement.

2. I was employed by Home Depot (“Defendnat”) during the Class Period as an hourly paid, non-exempt Sales Associate. As a Sales Associate, my primary job duties included opening and maintaining the electrical department, interacting with customers, and providing customer service.

3. After noticing some irregularities to the time and pay records I had access to and discussing them with my coworkers and members of Defendant’s management, I contacted Capstone Law to discuss the irregularities and potential recourse.

4. I decided to file a lawsuit against Defendant because I had a number of grievances against Defendant stemming from its labor policies and practices. These grievances are set forth in detail in the operative Complaint and my letter to California Labor and Workforce Development Agency (“LWDA”).

5. Prior to filing my lawsuit, my attorneys and I had multiple conferences about the factual bases for the claims that I wanted to pursue against Defendant.¹ During those conferences, my attorneys provided me with an overview of how those claims would be litigated, and generally educated me about the nature of complex/representative litigation and my role as the representative Plaintiff.

6. After retaining my attorneys, I spent considerable time on the phone discussing the facts of my case with my attorneys. I discussed the facts related to my employment with Defendant, including discussing my job duties and responsibilities, my job position, the hours and days I worked, how I was compensated, the time and pay irregularities I had identified, and my discussions with coworkers and Defendant’s management. I also collected documents relevant to my potential claims and reviewed them

¹ Although the preservation of my attorney-client privilege requires that I refrain from revealing the specifics of my communications with my attorneys, I understand that the privilege is not waived by stating generally the matters that I have discussed with my attorneys.

1 with my attorneys.

2 7. My attorneys provided me with a draft of the Complaint for my review and approval. I
3 closely reviewed the Complaint to ensure accuracy and completeness. Following the filing of the
4 Complaint, I collaborated with my attorneys on the prosecution of my claims, and I regularly contacted
5 my attorneys to stay current on the status of the litigation, and to discuss my attorneys' progress in
6 prosecuting the claims.

7 8. I have worked to the best of my ability to prosecute this action on behalf of the entire class,
8 always considering the interests of the Class Members just as I would consider my own interests. I believe
9 class actions are an important tool to assure compliance with the law even where an individual's losses
10 may be relatively small. I have no interests which are inconsistent with the interests of the class.

11 9. When I agreed to represent other non-exempt employees performing duties for Defendant
12 in the State of California, I understood it was my duty to be readily available and to participate actively in
13 this case. I knew that I would be required to review documents, search for documents and produce them
14 to my attorneys, answer written questions, potentially answer oral questions and testify truthfully under
15 oath, and be available to appear in court, if necessary.

16 10. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

17 11. Since initiating my lawsuit until now, I have kept aware of the status of the lawsuit and
18 provided my attorneys with information used by them in the litigation. I have spent large amounts of time
19 and effort pursuing my claims and the claims of the other employees from the time I retained my attorneys
20 to the present date.

21 12. I have carefully reviewed the terms of the proposed settlement. My attorneys explained
22 the specifics of how the settlement would work and I accepted the settlement only after I had spent time
23 evaluating the proposed outcome to assure that it was fair. Based on my attorneys' evaluation and
24 recommendation, and my own review, I believe the settlement is fair and reasonable and adequately
25 compensates Class Members.

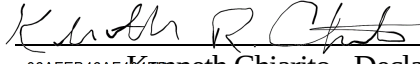
26 13. In summary, over the course of this litigation I have spent a significant amount of time
27 conferring and working with my attorneys on the prosecution of my claims and evaluating the settlement
28 and related documents. I estimate that I have spent between 25 and 35 hours assisting my attorneys in the

1 prosecution of this lawsuit.

2 14. Throughout this case, I have not sought individual benefits from the lawsuit. Rather, I
3 maintained this lawsuit because I wanted to hold Defendant accountable for their unlawful conduct. I
4 believe that I have fulfilled my responsibilities, and I will continue to fulfill those responsibilities, to the
5 best of my ability, until the conclusion of the case.

6 15. I am committed to this case and will continue to make myself available as needed in the
7 settlement process.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct. Executed on [Date] 11/5/2024, at [City] Van Nuys, California.

10 DocuSigned by:
11 
12 06AFEB46AF44 Kenneth Chiarito - Declarant