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Attorneys for Plaintiffs DEVIN TERRELL, NESHA SHEDD, and SUSAN BUSTOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

DEVIN TERRELL, NESHA SHEDD, AND
SUSAN BUSTOS, individuals, on behalf of
themselves and on behalf of all persons
similarly situated

Plaintiffs,

v.

KAISERAIR, INC., a California corporation;
and DOES 1-50, Inclusive;

Defendant.

Case No. RG21113701

**DECLARATION OF DEVIN TERRELL IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: November 17, 2023

Time: 9:00 a.m.

Judge: Hon. Evelio Grillo

Dept.: 21

Reservation ID: 257718508062

1 I, DEVIN TERRELL, 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 April of 2021 and filed the lawsuit in September of 2021. I
8 filed 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 September
10 23, 2017 to January 18, 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
13 Alameda County from December of 2016 to March of 2021.

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, miscalculated the regular rate of pay, failed to provide
17 compliant meal and rest periods, failed to pay overtime, meal premiums, and sick pay, at the correct
18 regular rate of pay, failed to furnish accurate itemized wage statements, failed to pay all wages when
19 due and failed to reimburse employees for mandatory business expenses.

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

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

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

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

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

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

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

20 11. **Review and Approval of Settlement:** A mediation was held on November 18, 2022.
21 Even though I could not attend, I was available by telephone to speak with my attorneys and did speak
22 with them regarding the mediation before it took place, as well as during the mediation itself. I also
23 spoke with my attorneys after the mediation. I was very satisfied with the terms of the settlement that
24 was agreed to by the parties. I reviewed and signed the Memorandum of Understanding on November
25 22, 2022, and when the settlement papers were ready, I again spoke with my attorneys and reviewed the
26 settlement agreement, including the amended settlement agreements, which I signed on January 24, May
27 24 and June 2, 2023.
28

12. **Participation:** Since I retained Class Counsel approximately thirty months ago, I have been actively involved with this class action lawsuit performing the duties described above. While I did not keep formal time records, I was in regular contact with my attorneys, attended hearings, reviewed important court filings, and spent considerable time on the issues presented during the litigation and in the settlement process. I estimate that I spent approximately 20-22 hours working on this case.

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

14. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who now stand to receive substantial monetary payments as a result of this case and settlement. I also believe that the requested Class Representative Service Payment in the amount of \$5,000 from the settlement is fair compensation for the (1) the work I performed, (2) the sacrifices made not pursuing this case individually, and (3) the risks I undertook.

15. In light of all the time and effort I have spent on this case, the sacrifice I have made, the risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's costs in the event we did not win the case, and in light of the size of the settlement, I believe the request for \$5,000 as a service award is fair and reasonable.

16. Further, I support my attorneys' application for a Class Counsel Award in the amount of \$425,000.00, comprised of \$400,000.00 for attorneys' fees (one-third of the Gross Settlement Amount) and up to \$25,000 for reimbursement of actually incurred litigation expenses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on Oct 24, 2023, at Pittsburg, California.

By: 
Devin Terrell (Oct 24, 2023 12:31 PDT)

DEVIN TERRELL