

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (SBN 068687)

2 Kyle R. Nordrehaug (SBN 205975)

Aparajit Bhowmik (SBN 248066)

3 2255 Calle Clara

La Jolla, CA 92037

4 Telephone: (858) 551-1223

Facsimile: (858) 551-1232

5 Attorneys for Plaintiffs

7 **UNITED STATES DISTRICT COURT**

8 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ISMAEL ORTEGA, KRISINDA)
11 WOLFE, DORIS WILLIAMS-JENKINS,)
12 and LILIA SILVA, individuals, on behalf)
13 of themselves and on behalf of all persons)
14 similarly situated,)

15 Plaintiff,

16 vs.

17 LOYAL SOURCE GOVERNMENT)
18 SERVICES, LLC, a Limited Liability)
19 Company; and Does 1 through 50,)
20 Inclusive,)

21 Defendants.

Case No. **3:20-cv-0879-LAB-NLS**

**DECLARATION OF ISMAEL
ORTEGA IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing Date: July 26, 2021

Hearing Time: 11:30 a.m.

District Judge: Hon. Larry A. Burns
James M. Carter and Judith N. Keep
United States Courthouse
Courtroom 14A

1 I, Ismael Ortega, declare as follows:

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

7 2. I worked for Defendant Loyal Source Government Services, LLC ("Loyal Source") as a
8 certified medical assistant in California from June of 2019 to December of 2019 and I was
9 classified by Loyal Source as a non-exempt employee during that time period.

10 3. I retained the law firm of Blumenthal Nordrehaug Bhowmik DeBlouw LLP, who are
11 experienced in both class action litigation and claims against employers for violations of the
12 California Labor Code and Fair Credit Reporting Act.

13 4. I have no personal relationship or family ties to my attorneys or any officer of the Court. I
14 am not involved in any litigation against another member of the class in this case and my
15 attorneys are not working on my behalf in another capacity other than representing me in this
16 lawsuit.

17 5. I decided to file this class action lawsuit for the benefit of myself and other current
18 and former non-exempt employees who worked for Loyal Source and be a class representative
19 because I felt that my legal rights as an employee and others like me were violated. For example,
20 Loyal Source underpaid my overtime wages because they failed to include non-discretionary
21 compensation into my regular rate of pay in order to determine my correct overtime rate. I was
22 also not paid for off the clock work such as when my supervisors texted me and called me on a
23 regular basis during non-work hours regarding work-related issues. Loyal Source also failed to
24 include all necessary information on my pay stubs and did not reimburse me for using my
25 personal cell phone for work related issues. Loyal Source also performed a background check on
26 me that did not comply with the law.

6. This class action case was filed on February 14, 2020 in San Diego County Superior Court and later was removed to this Court by Loyal Source. Before the complaint was filed I spoke to my attorneys several times and discussed how Loyal Source implemented its company policies and procedures. I also assisted my attorneys in their investigation into my claims by providing them documents and answering their questions. I reviewed the complaint before it was filed and after it was filed I was given access to an electronic file sharing program that alerted me via email when important documents were filed so that I could review them and keep up with the developments in the case which I understood was one of my duties as a class representative. I actually spent many late nights reading the court documents that my attorneys made available to me. I would also contact my attorneys from time to time if I had any questions about the case. My attorneys were regularly available when I contacted them.

7. Even though this action is in the process of settling, I was and remain prepared to perform all the duties of a class representative. I understand that as a class representative I have assumed a fiduciary responsibility to prosecute this class action on behalf of the absent non-exempt employees who worked for Loyal Source during the class period. I have understood that as a fiduciary, I have a duty to prosecute this action for the benefit of the members of the class and surrender any right to compromise the group action for an individual gain.

8. I understood that being a plaintiff/class representative in this case meant that I was seeking damages not only for myself but also other current and/or former non-exempt employees working for Loyal Source in California and also actual employees or prospective employees of Loyal Source who got a background check as part of the hiring process. I felt that this group of people were not aware of their rights and even if they were they would probably be apprehensive about speaking up or even simply because of the time, effort and risk involved in filing a class action lawsuit.

9. I understood that being a part of this lawsuit involved risks. For example, my attorneys explained to me that if the case went to trial and we lost, I could be held responsible to

1 pay for all or part of the attorney fees and costs paid by Loyal Source to defend this lawsuit.
2 Also, I knew there was a risk that future employers, if they ever found out about this lawsuit,
3 could hold it against me or downgrade me as a potential hire. I am the lead named plaintiff in
4 this action and with a simple internet search it would not be difficult for a future employer to
5 figure out I sued a former employer for labor law violations. In fact, I am currently unemployed
6 having been laid off due to the Covid-19 pandemic and was recently contacted by a recruiter to
7 fill an open position as a certified medical assistant. When I expressed interest in the position the
8 recruiter never contacted me again. I suspect this lawsuit could have been a factor because
9 certified medical assistant jobs usually involve significant background checks and screening.
10 Ultimately I decided the risks were worth it and decided to fight for my rights and the rights of
11 others regardless of the risks, time and effort I spent on this case.

12 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
13 kept up to date on important developments by reviewing court filings that were made available to
14 me electronically as I described above.

15 11. A mediation took place on September 29, 2020 with David Rotman, Esq., an
16 experienced mediator of wage and hour class actions. Following the all-day mediation session,
17 the parties agreed to settle the action after a mediator's proposal was presented. I spoke with my
18 attorneys regarding the terms of the settlement which was reached between the parties and
19 understood that I was representing absent class members and therefore wanted the best possible
20 result to be obtained for the class and I believe a very positive result was in fact achieved via
21 settlement. I reviewed and signed the Memorandum of Understanding on October 5, 2020 and
22 when the final settlement papers were ready, I again spoke with my attorneys to review the
23 Settlement Agreement which I signed on January 11, 2021.

24 12. I have been actively involved with this class action lawsuit performing the duties
25 described above. Although I did not keep time records, I was in regular contact with my
26 attorneys, reviewed important court filings and spent a significant amount of time on the issues

presented during the lawsuit and in the settlement process. I estimate that I spent approximately 75-85 hours working on this case.

13. My attorneys explained to me that the settlement process involves a two-step review by the Court to determine whether the settlement is fair before approving the settlement. I know this process also involves 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. I believe I did the right thing by filing this case on behalf of the class who are in line to receive monetary payments as a result of this case and settlement. I also believe that the requested enhancement of \$10,000 from the settlement is fair compensation for the work I performed and the risks I undertook. I am aware the Court may reduce my service award request to \$5,000 and will accept whatever amount the Court approves.

15. As part of the settlement it was necessary for me to sign a general release of all claims I may have against the Loyal Source. I believe the service award I have requested provides me with some compensation for this agreed release.

16. I have not entered into any undisclosed agreements nor have I received any undisclosed compensation in this case. The only compensation I will receive is whatever amount the Court awards as a service award, as well as my share as a class member of the settlement fund.

17. In light of all the time and effort I have spent on this case, the risk I undertook by suing a former employer, the exposure to being responsible for paying Loyal Source's costs in the event we did not win the case, the reputational risk that future employers may hold this lawsuit against me, the general release, and in light of the size of the settlement, I believe the request for \$10,000 as a service award is fair and reasonable.

///

///

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on Jun 25, 2021, at eEarlimart, California
4 (city, state)

5 
6 Ismael Ortega (Jun 25, 2021 16:59 PDT)
7 Ismael Ortega