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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSEPH JIMENEZ, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

MAKITA U.S.A., INC., a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 20STCV21732

Assigned for All Purposes to:
Honorable Amy D. Hogue
Department 7

CLASS ACTION

**PLAINTIFF'S SECOND SUPPLEMENTAL
BRIEF IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

[Second Supplemental Declaration of Proposed
Class Counsel (Douglas Han); Declaration of
Stephanie Alexander; Declaration of Yuhei
Iwanaga; Declaration of Jodey Lawrence; and
Second Amended [Proposed] Order filed
concurrently herewith]

Hearing Date: April 4, 2022
Hearing Time: 10:00 a.m.
Hearing Place: Department 7

Complaint Filed: June 4, 2020
FAC Filed: September 20, 2021
Trial Date: None Set

Plaintiff Joseph Jimenez (“Plaintiff”) provides this supplemental submission in response to the Court’s tentative ruling and checklist on Plaintiff’s Motion for Preliminary Approval of Class Action Settlement scheduled for hearing on April 4, 2022. On March 29, 2022, the Court issued instructions to address the concerns outlined in the ruling and checklist.

I. Plaintiff Is an Adequate Class Representative.

Plaintiff is an adequate class representative because Plaintiff’s claims are typical of the Class; common questions of fact and law predominate as to Plaintiff and the Class; Plaintiff’s interests are aligned with those of the Class – he has no interests antagonistic to those of the Class; and there are no potential conflicts of interest between Plaintiff and the Class. (Second Supplemental Declaration of Douglas Han (“Second Supp. Han Decl.”), ¶ 6; Amended Declaration of Plaintiff Joseph Jimenez (“Amended Jimenez Decl.”), ¶ 16.¹) Typical claims rely on legal theories and facts that are substantially similar to those upon which the claims of other class members rely. (See *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.) Here, Plaintiff’s purpose in bringing this action against Defendant was to attempt to rectify the Labor Code violations communally experienced by himself and the putative class members as employees of Defendant during the relevant period. Specifically, as an employee of Defendant, Plaintiff was not provided with compliant rest and meal breaks or paid premium wages for noncompliant rest and meal breaks, was not compensated for all hours worked, including off-the-clock work, and was not paid all wages owed upon resignation. (Amended Jimenez Decl., at ¶¶ 12-15.) These violations can be attributed to Defendant’s wage-and-hour policies and practices, which affected not only Plaintiff, but also the Class Members. For example, Plaintiff was often forced to take his rest breaks late because he had to wait until his supervisors announced over the intercom that he could take his break. (*Id.* at ¶ 13.) This practice plainly affected all employees who worked the same schedule as Plaintiff. Because of these shared experiences, Plaintiff’s claims are typical of

¹ The Amended Declaration of Plaintiff Joseph Jimenez (“Amended Jimenez Decl.”) was filed with the Court on March 10, 2022, along with Plaintiff’s Supplemental Brief in Support of Preliminary Approval of Class Action Settlement.

1 the Class, and Plaintiff is therefore an adequate representative of the Class. (See *Sav-On Drug*
2 *Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.)

3 Moreover, California law does not require that the class representative have interests
4 identical to those of the class members – only that common questions of fact and law
5 predominate and that the class representative be similarly situated. (*Classen v. Weller, supra*, 145
6 Cal.App.3d at p. 46.) Here, that is surely the case. As a former hourly-paid, non-exempt
7 California employee of Defendant who was directly employed by Defendant during the Class
8 Period, Plaintiff is similarly situated to all other current and former hourly-paid or non-exempt
9 California employees of Defendant who were directly employed by Defendant during the Class
10 Period. Though some employees may have experienced more violations than others or some but
11 not all the violations alleged in the operative complaint, Plaintiff and each of the Class Members
12 was subject to and under the control of Defendant’s wage-and-hour policies, practices, and
13 procedures during the Class Period. Specifically, Plaintiff alleged that Defendant’s uniform
14 policies and practices resulted in noncompliant meal and rest breaks and unpaid meal and rest
15 period premiums, uncompensated off-the-clock work, unpaid overtime, improperly calculated
16 sick leave pay, untimely paid final wages, inaccurate wage statements, and unreimbursed
17 business expenses. (Second Supp. Han Decl., *supra*, at ¶ 5.) These policies and practices create
18 common questions as to all affected Class Members. (See e.g., *Benton v. Telecom Network*
19 *Specialists, Inc.* (2013) 220 Cal.App.4th 701, 726.)

20 Finally, as stated above, there are no apparent conflicts of interest between Plaintiff and
21 the Class Members he seeks to represent, making Plaintiff an adequate class representative.
22 (Second Supp. Han Decl., *supra*, at ¶ 6; Amended Jimenez Decl., *supra*, at ¶ 16; *Capitol People*
23 *First v. State Dept. of Developmental Services* (2007) 155 Cal.App.4th 676, 697.) Nor do Class
24 Counsel have any conflicts of interest with the Class Members. (Second Supp. Han Decl., at ¶ 6.)
25 Moreover, Plaintiff’s interests are aligned with those of the Class Members because Plaintiff and
26 the Class Members all seek monetary relief pursuant to the same facts and legal theories,
27 described in detail above. Further, Class Counsel have extensive experience litigating wage-and-

hour class action matters and have diligently litigated this case since its inception. (Declaration of Douglas Han (“Han Decl.”), ¶¶ 2-7.)²

II. Additional Information and Revisions.

The chart below lists each of the Court’s concerns from the tentative ruling and checklist and the revisions/submissions made to address each concern.

Ruling	Revisions/Submissions
(1) Plaintiff’s General Release: In Plaintiff’s amended declaration, he states that he seeks the \$5,000 Class Representative Enhancement Payment for the general release of his claims (see Amended Jimenez Decl. ¶19.) However, this settlement agreement does not appear to contain a general release of Plaintiff’s claims. Was the statement made in error, or did Plaintiff enter into a separate general release agreement? If so, the terms must be disclosed to the Court, including whether Plaintiff is receiving any payments in addition to that discussed in the class settlement agreement. Additional briefing would also need to be provided to support the contention that Plaintiff is an adequate class representative and whether there is a potential conflict of interest between Plaintiff and the class.	The Settlement Agreement has been amended to include Plaintiff’s general release of claims. (Second Supp. Han Decl., <i>supra</i> , at ¶ 4; Exhibit 2, § III (L).) Plaintiff’s adequacy as the class representative and the lack of conflict of interest between Plaintiff and the Class is addressed in Section I above.
(2) PAGA Release: Please provide a copy of	A true and correct copy of Plaintiff’s LWDA

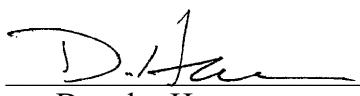
² The Declaration of Douglas Han in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement was filed with the Court on September 29, 2021, along with Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

1 2 3 4 5	Plaintiff's LWDA letter to the court for review.	letter is attached to the Second Supplemental Declaration of Douglas Han in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as Exhibit 4. (Second Supp. Han Decl., <i>supra</i> , at ¶¶ 3(c), 7.)
6 7 8 9 10	(3) Eligible Aggrieved Employees: Approximately how many Eligible Aggrieved Employees are within this settlement?	There are approximately one hundred four (104) Eligible Aggrieved Employees within this Settlement, confirmed by Defendant on March 29, 2022. (Second Supp. Han Decl., <i>supra</i> , at ¶ 8.)
11 12 13 14 15	(4) Payment Formula: The formula for calculating individual settlement payments (¶III.F.5.a) does not appear to consume the net if any class member opts out. Please address.	The Settlement Agreement and Class Notice have been amended to address this issue. (Second Supp. Han Decl., <i>supra</i> , at ¶ 9; Exhibit 2, <i>supra</i> , at § III (F)(5)(a); Exhibit 3, § 10 (A).)
16 17 18 19	(5) Notice: The Court would prefer that Section 5 of the Notice (i.e., the summary boxes) be moved to be between Sections 1 and 2.	The Class Notice has been amended accordingly. (Second Supp. Han Decl., <i>supra</i> , at ¶ 10; Exhibit 3, <i>supra</i> , at § 2.)
20 21 22 23 24 25 26 27	(6) Settlement Administrator: Provide a declaration from the settlement administrator that provides the qualifications and experience of the administrator, and affirms that the administrator has sufficient safeguards in place to protect the data and funds entrusted to it (e.g., insurance for the theft of money or data) and has no relationship to any counsel.	Jodey Lawrence, a representative of Phoenix Class Action Administration Solutions ("Phoenix"), has prepared a declaration providing the qualifications and experience of Phoenix and affirming that Phoenix has sufficient safeguards in place to protect the data and funds entrusted to it and has no relationship with any counsel. (Second Supp.

	Han Decl., <i>supra</i> , at ¶ 11.) The Declaration of Jodey Lawrence in Support of Phoenix Class Action Administration Solutions’ Adequacy as the Settlement Administrator has been filed concurrently herewith. (<i>Ibid.</i>)
(7) Cy Pres Distribution: Provide declarations by all counsel and parties disclosing any interest or involvement in the governance or work of the proposed cy pres recipient, Legal Aid at Work.	Neither Justice Law Corporation nor any of its attorneys and staff have any interest or involvement in the governance or work of the proposed <i>cy pres</i> recipient, Legal Aid at Work. (Second Supp. Han Decl., <i>supra</i> , at ¶ 12.) Declarations of Counsel for Defendant Stephanie Alexander and Defendant Makita U.S.A., Inc.’s Corporate Secretary Yuhei Iwanaga, the representative for Defendant, have been filed concurrently herewith to address whether Counsel for Defendant and Defendant have any interest or involvement in the governance or work of the proposed <i>cy pres</i> recipient, Legal Aid at Work. (<i>Ibid.</i>) Class Counsel will file with the Court a declaration of Plaintiff Joseph Jimenez addressing this issue when received. (<i>Ibid.</i>)

Dated: April 1, 2022

JUSTICE LAW CORPORATION

By: 
Douglas Han
Shunt Tatavos-Gharajeh
Chancellor Nobles
Attorneys for Plaintiff

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is aokada@justicelawcorp.com

On April 1, 2022, I served the foregoing document described as

**PLAINTIFF'S SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

for the following case: **Jimenez v. Makita U.S.A., Inc.**
LWDA/Court Case No.: **LWDA-CM-791526-20**
Court Case No.: 20STCV21732
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on April 1, 2022, at Pasadena, California.



Anna Okada