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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10 **CIVIL DIVISION, CENTRAL DISTRICT**
SPRING STREET COURTHOUSE

11 JAMES AVILEZ, individually and on behalf of
all others similarly situated,

12 Plaintiff,

13 v.

14 GORLITZ SEWER & DRAIN, INC., a
California corporation, and DOES 1 through 20,
15 inclusive,

16 Defendants.

Case No. 20STCV21169

**DECLARATION OF JAMES AVILEZ IN
SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT**

Hearing Date: May 21, 2021 (continued from
February 11, 2021)

Hearing Time: 10:00 a.m.

Dept.: 9

Judge: Honorable Yvette M. Palazuelos

Original Complaint Filed: May 29, 2020

19 I, James Avilez, declare:

20 1. I have personal knowledge of the facts stated in this declaration. If I were called as
21 a witness in this action, I would be competent to testify to the facts stated herein.

22 2. I am the plaintiff in the putative class action lawsuit against the Defendant, Gorlitz,
23 Sewer & Drain, Inc., currently pending before the Honorable Judge Yvette M. Palazuelos in
24 Department 9 of the Los Angeles Superior Court. I respectfully submit this declaration in support
25 of Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement.

26 **Personal Background**

27 3. I am 30 years old.
28

4. I am engaged to be married to the mother of my two children (ages 10 and 7).

5. I currently reside in El Monte, California, where I have resided at all times relevant to this action.

Educational and Professional Background

6. I earned my GED in 2017.

7. I was employed by the Defendant during the approximate time period of March, 2010, to August 21, 2019.

8. I worked in Defendant's shipping department as a warehouseman during the approximate time period of 2015 to the end of my employment by Defendant.

9. I worked in Defendant's sales department as a salesman during the approximate time period of 2017 to the end of my employment by Defendant. Throughout that time period, I also worked in Defendant's shipping department as indicated above.

10. I regularly worked at least 8 hours per day, 40 hours per week and 5 days per weeks throughout my employment by Defendant.

11. I earned the following hourly rates of pay during my employment by Defendant within the Class Period: \$18.50 per hour during the approximate time period of February 2019 to the end of his employment by Defendant in August 2019; \$17.50 per hour during at least a portion of 2018; \$16.50 per hour during at least a portion of 2017; and \$15.50 per hour during at least a portion of 2016.

12. I quit my employment by Defendant on or about August 21, 2019, in order to pursue other professional opportunities. I am currently employed by Local 44 as a greensman. In that capacity, I provide construction-related services for production companies in the television and film industries.

Fiduciary Duties as Class Representative

13. I am the plaintiff in the above-captioned putative class action against the Defendant, Gorlitz, Sewer & Drain, Inc., currently pending in the Los Angeles Superior Court.

1 14. I am prosecuting this action on behalf of myself and all others similarly situated –
2 namely, all persons who were employed by Defendant and paid hourly wages at any time within the
3 time period of four (4) years preceding the filing of the Complaint up to and through the date of
4 filing of the Complaint (hereinafter referred to as “Class Members”).

5 15. The wage-and-hour claims alleged in this action on behalf of myself and the Class
6 Members (e.g., unpaid wages for hours worked off-the-clock, meal period violations, rest period
7 violations, and various penalties arising therefrom) are based upon, *inter alia*: (a) my personal
8 experiences throughout my employment by Defendant during the Class Period; (b) my observations
9 of various Class Members throughout their employment by Defendant during the Class Period; and
10 (c) my conversations with various Class Members throughout their employment by Defendant
11 during the Class Period. Accordingly, I have personal knowledge of the wage-and-hour claims on
12 behalf of myself and good faith beliefs supporting the wage-and-hour claims on behalf of the Class
13 Members.

14 16. I worked for Defendant during the vast majority of the Class Period.

15 17. The wage-and-hour claims alleged in this action on behalf of myself arise from the
16 same facts and are based on the same legal theories as the wage-and-hour claims alleged in this
17 action on behalf of the Class Members.

18 18. The wage-and-hour claims alleged in this action on behalf of myself are not only
19 typical of the wage-and-hour claims alleged in this action on behalf of the Class Members, but also
20 they are substantively identical.

21 19. I understand that, as the Class Representative in this action, I have fiduciary duties
22 and obligations to adequately represent and to act in the best interests of the Class Members. I take,
23 and I will always take, those duties and obligations very seriously.

24 20. I have adequately represented, and I will continue to adequately represent, the Class
25 Members at all times during the prosecution of this action.

26 21. I have acted, and I will continue to act, in the best interests of the Class Members at
27 all times during the prosecution of this action.

1 22. I have never had, I do not have, and I do not plan to have any antagonism or conflict
2 of interest with any Class Member.

3 23. I have prosecuted, and I will continue to prosecute, this action vigorously on behalf
4 of all Class Members.

5 24. I have provided substantial assistance to my attorney, Daniel V. Santiago, in the
6 prosecution of this action. More specifically, I have, *inter alia*: (a) conferred with Mr. Santiago on
7 numerous occasions regarding the facts underlying the claims at issue in this action and the status
8 of the litigation; (b) provided Mr. Santiago with background information regarding Defendant's
9 policies and practices relevant to the claims at issue in this action; (c) reviewed my employment
10 records throughout the Class Period which I am informed by Mr. Santiago were produced by
11 Defendant's counsel; (d) reviewed class data which I am informed by Mr. Santiago were disclosed
12 by Defendant's counsel and which are relevant to evaluating the Class Members' potentially
13 recoverable damages; (e) assisted Mr. Santiago with preparing for the mediation, attended the
14 mediation, and actively participated in the mediation; (f) reviewed and approved the Complaint in
15 this action; (g) reviewed Defendant's responses to Plaintiff's written discovery requests which I am
16 informed by Mr. Santiago were served by Defendant's counsel and which purportedly reflect
17 Defendant's practices regarding off-the-clock work, meal periods, rest periods, and related issues;
18 (h) reviewed and approved Plaintiff's Unopposed Motion for Preliminary Approval of Proposed
19 Class Action Settlement and related papers; (i) reviewed, approved, and signed the parties'
20 Stipulation of Class Action Settlement and First Amended Stipulation of Class Action Settlement
21 (the latter of which I am informed by Mr. Santiago addresses certain concerns expressed by the
22 Court shortly before the initially-scheduled hearing on Plaintiff's Unopposed Motion for
23 Preliminary Approval of Class Action Settlement); (j) reviewed, approved, and signed this
24 Declaration; (k) made myself readily available to Mr. Santiago throughout the litigation and
25 settlement process; and (l) risked having my participation in this action be an impediment to future
26 employment.

25. Going forward, I am prepared to continue to assist Mr. Santiago in the prosecution of this action by, *inter alia*: (a) conferring with Mr. Santiago regarding the status of the litigation and the settlement process; (b) conferring with any Class Member who might contact me to discuss the claims at issue in this action, the status of the litigation and/or the settlement process; (c) reviewing and approving Plaintiff's Motion for Final Approval of Class Action Settlement and related papers which I am informed by Mr. Santiago will be drafted, finalized and filed after the Court grants preliminary approval of the proposed settlement, the Claims Administrator mails the Class Notice to all Class Members, and the 60-day time period for the Class Members to object to and/or opt-out of the proposed settlement, as reflected in the First Amended Stipulation of Class Action Settlement, expires; (d) continuing to make myself readily available to Mr. Santiago throughout the litigation and settlement process; and (e) continuing to risk having my participation in this action be an impediment to future employment.

26. I sincerely believe there is a substantial risk that my participation in this action will be an impediment to certain employment opportunities in the future. I understand that my participation in this action as the class representative is, and will always be, a matter of public record. Accordingly, I anticipate that some prospective employers will be hesitant or reluctant to hire me as a result of my filing of this action, regardless of my strong beliefs (which I will be prepared to explain to those prospective employers if necessary) that all of the claims alleged in this action are supported by the underlying facts and California law. I accept that risk and the corresponding burden it will impose on certain employment opportunities in the future.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 27, 2021. ,

James Avilez