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

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

Plaintiff,

v.

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

Defendants.

Case No. 20STCV21169

**SUPPLEMENTAL DECLARATION OF
DANIEL V. SANTIAGO 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 a.m.

Dept.: 9

Judge: Honorable Yvette M. Palazuelos

Original Complaint Filed: May 29, 2020

I, Daniel V. Santiago, declare:

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

2. I am a member in good standing of the State Bar of California and licensed to practice in all courts in the State of California. I represent the Plaintiff, James Avilez, in the above-captioned putative class action against the Defendant, Gorlitz Sewer & Drain, Inc., currently pending in the Superior Court of California, County of Los Angeles, Case No. 20STCV21169.

3. I respectfully submit this supplemental declaration in support of the Plaintiff's Unopposed Motion for Preliminary Approval of the Proposed Class Action Settlement reflected in

1 the parties' First Amended Stipulation of Class Action Settlement and Release ("First Amended
2 Stipulation") filed under separate cover and incorporated herein by reference. As used herein, all
3 capitalized terms have the meanings described in the First Amended Stipulation.

4 4. The issue of whether Defendant's share of payroll taxes should be paid from the Net
5 Settlement Amount as provided in paragraph 11.e of the First Amended Stipulation (instead of
6 Defendant's share of payroll taxes being in addition to, or on top of, the Gross Settlement Amount
7 of \$220,000) was subject to careful consideration and negotiation by the parties during the
8 mediation on April 29, 2020, with the Honorable Judge Margaret A. Nagle, Ret., of JAMS.
9 Ultimately, the parties' agreement at the mediation that Defendant's share of taxes would be paid
10 from the Net Settlement Amount was a material term of the Settlement.

11 5. The parties have agreed to use CAC Services Group, LLC ("CAC") as the
12 Settlement Administrator. CAC has significant experience in class action settlement
13 administration. CAC estimates that its Administration Costs will not exceed \$6,000. Of note,
14 CAC's prior estimate that its Administration Costs would not exceed \$5,000 did not reflect the
15 additional expenses associated with additional duties to be performed by or on behalf of CAC, as
16 set forth in the First Amended Stipulation of Class Action Settlement and Release. Those additional
17 duties include, *inter alia*, providing English and Spanish versions of the Class Notice to all Class
18 Members, notifying all Class Members of the Court's Final Order and Judgment, notifying all Class
19 Members of any change in the date, time or location of the final approval hearing at which the
20 Court will consider granting final approval of the proposed class action settlement.

21 6. Given that CAC's Administration Costs have increased by \$1,000 from \$5,000 to
22 \$6,000 as explained above, the Net Settlement Amount to be paid to all Participating Class
23 Members has decreased by \$1,000 from \$118,542 to \$117,542. The latter figure is reflected in the
24 calculations described below.

25 7. CAC has informed the parties that it estimates that Defendant's share of payroll
26 taxes to be paid from the Net Settlement Amount is \$4,125.72 based upon the following
27 calculations: Net Settlement Amount of approximately \$117,542 X 20% (*i.e., the percentage of the*
28

1 *Net Settlement Amount that will be treated by the Parties as wages reported on IRS Form W-2*
2 *[subject to applicable withholdings and deductions] and that the Settlement Administrator shall*
3 *withhold and pay over to the appropriate federal and state taxing authorities, as provided in*
4 *paragraph 11.g.(2) of the First Amended Stipulation) = \$23,508.40 X 17.55% (i.e., the percentage*
5 *of employer's share of federal and state payroll taxes) = \$4,125.72. Of note, CAC has further*
6 *informed the parties that the percentage of the employer's share of federal and state payroll taxes*
7 *(i.e., 17.55%) reflects the following: Social Security taxes (6.2% of \$23,508.40 = \$1,457.52);*
8 *Medicare taxes (1.45% of \$23,508.40 = \$340.87); Federal Unemployment taxes ("FUTA") (6.0%*
9 *of \$23,508.40 = \$1,410.50); State Unemployment Insurance ("UI") taxes (2.6% of \$23,508.40 =*
10 *\$611.22); State Disability Insurance ("SDI") taxes (1.2% of \$23,508.40 = \$282.10); and*
11 *Employment Training Tax ("ETT") (0.1% of \$23,508.40 = \$23.51).*

12 8. I submitted the First Amended Stipulation and related papers (i.e., the Supplemental
13 Memorandum in Support of Plaintiff's Unopposed Motion For Preliminary Approval of Proposed
14 Class Action Settlement (Addressing All Items in the Addendum to the Court's Tentative Ruling
15 Dated February 10, 2021), the Supplemental Declaration of Daniel V. Santiago in Support of
16 Plaintiff's Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement, the
17 Declaration of James Avilez in Support of Plaintiff's Unopposed Motion For Preliminary Approval
18 of Proposed Class Action Settlement, and the [First Amended Proposed] Order Granting Plaintiff's
19 Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement) to the LWDA
20 at the same time I submitted those papers to the Court, as required by California Labor Code
21 §2699(1)(2). More specifically, I submitted those papers to the LWDA via online filing on the
22 LWDA's website immediately before I submitted those papers to the Court via online submission
23 to One Legal for immediate filing in the Court.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 is true and correct and that this declaration was executed on April 6, 2021.

26 
27 Daniel V. Santiago