

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Eduardo Garcia (State Bar #290572)

5440 Morehouse Drive, Suite 3500

San Diego, CA 92121

Telephone: (619)599-8292

Facsimile: (619) 599-8291

jlapuyade@jcl-lawfirm.com

egarcia@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)

Jackland K. Hom (State Bar #327243)

5440 Morehouse Drive, Suite 3500

San Diego, CA 92121

Telephone: (619)255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.com

jackland@zakaylaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUIS DE JESUS, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

GUARDIAN ANGEL HOME CARE, INC., a
Michigan Corporation; SAM D. KASSAB; an
individual, and DOES 2-50, Inclusive,

Defendants.

Case No. 37-2020-00021049-CU-OE-CTL

**DECLARATION OF LUIS DE JESUS IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT**

Hearing Date: June 24, 2022

Hearing Time: 8:30 a.m.

Honorable Judge Ronald F. Frazier
Department: 65

1 I, LUIS DE JESUS, 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 Settlement and in support of Plaintiff's Motion for Attorneys' Fees and
5 Service Award. I have personal knowledge of all the facts stated herein. I could and would competently
6 testify under oath to these facts in court if requested to do so.

7 2. I retained Class Counsel in April 2020 and filed the lawsuit in June 2020. I filed the case
8 on behalf of myself and a class of current and former employees who were paid on a piece-rate basis
9 and worked for GUARDIAN ANGEL HOME CARE, INC. in California between April 6, 2016, to
10 August 2, 2021.

11 3. I worked for Defendant as a non-exempt employee, paid on a piece-rate basis, in San
12 Diego County, City of San Diego between from January 2019 to February 2020.

13 4. I filed the case because I believed my rights as an employee were violated by Defendant
14 and also the rights of other employees that worked for Defendant. Among other claims, I believe
15 Defendant failed to pay me for all hours worked, failed to provide legally compliant meal and rest
16 periods, failed to pay me all wages when due, failed to reimburse me for required business expenses,
17 failed to pay me sick time, and failed to provide accurate itemized wage statements.

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

23 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
24 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
25 than merely seeking my individual claims substantially increased the risk to me. Those risks included
26 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
27 I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by
28 the attorneys and the Court because I needed to prove that I was an adequate class representative.

1 Further, I understood that I would lose some autonomy over my individual claims that I could not make
2 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
3 of the Settlement Class in mind.

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

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

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

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

18 11. **Review and Approval of Settlement:** A mediation was held on August 2, 2021. Even
19 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
20 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
21 with my attorneys after the mediation and discussed the mediator's proposal which was ultimately
22 accepted. I was very satisfied with the terms of the settlement that was agreed to by the parties. I
23 reviewed and signed the Memorandum of Understanding on September 1, 2021, and when the settlement
24 papers were ready, I again spoke with my attorneys and reviewed the settlement agreement which I
25 signed on November 9, 2021.

26 12. **Broad Release:** Unlike all the other Class Members, as part of the Settlement Agreement,
27 I executed a broad general release of all claims arising out of my employment with Defendant including,
28 but not limited to, claims for harassment, wrongful termination, retaliation, and hostile work

1 environment. I understand that the Class Service Award is intended, in part, to compensate me for this
2 broad release.

3 13. **Participation:** Since I retained Class Counsel approximately two years ago, I have been
4 actively involved with this class action lawsuit performing the duties described above. While I did not
5 keep formal time records, I was in regular contact with my attorneys, attended hearings, reviewed
6 important court filings, and spent considerable time on the issues presented during the litigation and in
7 the settlement process. I estimate that I spent approximately 25 hours working on this case.

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

13 15. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who
14 now stand to receive substantial monetary payments as a result of this case and settlement. I also believe
15 that the requested enhancement of \$10,000 from the settlement is fair compensation for the (1) the broad
16 general release I executed, (2) the work I performed, the sacrifices made not pursuing this case
17 individually, and (3) the risks I undertook.

18 16. In light of all the time and effort I have spent on this case, the sacrifice I have made, the
19 risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's
20 costs in the event we did not win the case, and in light of the size of the settlement, I believe the request
21 for \$10,000 as a service award is fair and reasonable.

22 17. Further, I support my attorneys' application for a Class Counsel Award in the Amount of
23 \$333,333.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing is
25 true and correct. Executed on 06/01/2022, at Chula vista, California

26 By: Luis O De Jesus claudio
Luis O De Jesus claudio (Jun 1, 2022 15:25 PDT)

27 LUIS DE JESUS
28