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10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

12 RUBIN DUARTE, an individual
13 California resident, on behalf of himself
and the proposed class

14 Plaintiff

15 v.

16 ANDRE LANDSCAPE SERVICE, INC.,
17 a California corporation and DOES 1
THROUGH 5 inclusive,

18 Defendants.
19

Case No. 20STCV31056

Assigned for All Purposes to:
Hon. Maren Nelson, Dept. 17

**DECLARATION OF RUBIN DUARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

[Filed concurrently with Notice of Motion,
Memorandum, [Proposed] Order]

Date: November 3, 2023
Time: 9:00 a.m.
Dept.: 17

Action Filed: August 14, 2020
Trial Date: None set

DECLARATION OF RUBIN DUARTE

I, RUBIN DUARTE, hereby declare and state as follows:

1. I am the Plaintiff and Class Representative in this class action lawsuit against Defendants. Andre Landscape Service, Inc. If called upon as a witness, I could and would competently testify to the facts set forth below, as I know each to be true based upon my own personal knowledge.

2. From around July 2012 until April 2020, I worked for Defendants as a non-exempt hourly employee.

3. While I was working for Defendants, I became familiar with Defendants' business practices, which led me to believe that many of Defendants' employees were being paid incorrectly, were not receiving the legally required breaks, and were not being paid for all their hours worked, among other things. On July 2012, I began working for Andre Landscaping. I started as a Laborer. My tasks included taking out trash and cutting grass from various worksites. On or about January of 2015, I was promoted to a foreman position. At that time my tasks included laborer, landscaping, plant and tree removal. I was a supervisor of approximately three employees. The entire workforce is engaged in commercial landscaping and maintenance. I am very familiar with similarly situated employees. There are no additional positions within Andre Landscaping other than the positions referenced. While there are other employee groups, individual employees performed the same tasks at Andre Landscape and only worked in commercial landscaping and maintenance. Up until about 2015, Andre employed approximately three hundred employees. There was a lot of turn over due to employees not being paid proper wages and because the work was very demanding physically. Hours were recorded through a phone application. Every employee was told to install the application on their mobile phone and were told to punch at the beginning and end of the day. But in reality, we were only allowed to record the "scheduled time" and not our true hours worked. It is my understanding that the payroll department, and possibly the supervisors, had the ability to change the time entries to reflect the scheduled time but not the actual worked time. We reported to work, typically at headquarters and groups of employees would then leave to the respective worksite. The shift for the entire workforce was approximately 6:30 A.M. to 3:30 P.M. The shift

1 was supposed to end at 3:30 P.M., however depending on the jobsite or workload, sometimes
2 employees worked off-the-clock. The group of employees who were required to continue working
3 off-the-clock, would work an extra fifteen minutes to as much as half an hour. This happened on a
4 regular basis, with the group that I worked with that consisted of approximately forty to fifty
5 employees would not get paid the extra fifteen to thirty minutes.

6 4. I came forward as a class representative because I wanted to speak for myself and
7 the employees who feared complaining about violations. I spoke at length with my attorneys about
8 Defendants' various employment practices and why I believed these practices were illegal.

9 5. When I decided to become involved in this lawsuit as a Class Representative, I
10 understood that I would be subjected to the stigma that is sometimes associated with people who
11 bring these types of lawsuits. I also knew that I could be terminated or retaliated against and in fact
12 I was laid off after I filed the lawsuit. Defendant claimed that there was no more work available
13 for me. I am aware that this action is public record and may appear on a background check, thereby
14 affecting my future employment prospects. I understood that the lawsuit could continue for several
15 years and require my attention and participation the entire time. I was made aware that I could
16 become responsible for some or all of Defendants' legal costs if the case did not conclude
17 successfully. Despite these risks, I decided to serve as a Class Representative because it was the
18 right thing to do.

19 6. I spent many hours working on this case before and after it was filed. During the
20 pendency of the case, I continued to provide my attorneys with information related to Defendants'
21 working conditions and searched for and gathered information and documents related to the case.
22 I reviewed information and documents produced by Defendants and conferred with my attorneys
23 on numerous occasions to provide insight and perspective on this case as well as obtain updates
24 regarding the action and to answer questions. I also conferred with my fellow employees, but none
25 were willing to testify or sign declaration for fear of being terminated or retaliated. Furthermore, I
26 regularly reviewed the file documents and actively participated throughout the litigation, mediation,
27 and post mediation, including the motion for preliminary approval.

7. To prepare for mediation, I discussed the case in detail with my attorneys, including its potential strengths and weaknesses. I believe that my thorough knowledge of Defendants' practices assisted them in evaluating the claims and assessing the potential damages for use at mediation. I think that my efforts helped obtain the results in this case. I understand that I may be entitled to an additional payment for acting as the Class Representative, and that this payment is subject to Court approval. Considering the time, I devoted to this case and the results achieved through the settlement, I believe that the requested award is reasonable. My opinion about the fairness and adequacy of the settlement is not based on this potential award.

8. I estimate that I spent about seventy to eighty hours speaking with witnesses; obtaining and providing documents, information, and contact information for class members; reviewing and analyzing documents, pleadings, and the settlement agreement; conferring with my attorneys; and answering questions at mediation, among other things.

9. I received no benefit from my attorneys, Defendants, or anyone else as a result of prosecuting this action.

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

Executed on October 12, 2023 in Los Angeles, California.

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Rubin Duarte

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