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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

SPENCER SUMISAKI, DAVIAN
MONTGOMERY, individually, and on
behalf of other members of the general public
similarly situated; NADIA MORALES,
individually, and on behalf of other members
of the general public similarly situated and
on behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act; NINA WILLIAMS,
individually, on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Act,

Plaintiffs,

v.

BERKELEY BOWL PRODUCE, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: RG19014520

Honorable Evelio Grillo
Department 21

CLASS ACTION

**DECLARATION OF DAVIAN
MONTGOMERY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Notice of Motion and Motion for
Preliminary Approval of Class Action
Settlement; Declaration of Proposed Class
Counsel (Edwin Aiwazian); Declarations
of Proposed Class Representatives (Nadia
Morales and Nina Williams); and
[Proposed] Order filed concurrently
herewith]

Reservation No. 768154232963
Date: January 26, 2022
Time: 10:00 a.m.
Department: 21

Complaint Filed: April 10, 2019
FAC Filed: July 17, 2019
SAC Filed: November 20, 2020
Trial Date: None Set

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I, **Davian Montgomery**, hereby declare as follows:

1. I am over 18 years of age and a resident of California. I am one of the named plaintiffs in *Spencer Sumisaki, et al. v. Berkeley Bowl Produce, Inc.*, Superior Court of California for the County of Alameda, Case No. RG19014520. I have personal knowledge of the facts and statements set forth in this declaration, and if called upon to testify, I could and would competently testify thereto.

2. I was employed by Defendant Berkeley Bowl Produce, Inc. (“Defendant”) in an hourly-paid, non-exempt position from approximately August 2016 to approximately June 2017. I decided to seek legal advice about my work experiences with Defendant and about pursuing my grievances. I contacted Lawyers *for* Justice, PC and spoke with attorneys there. I wanted to do whatever I could to make sure Defendant paid me and other employees what was owed to us, and was held accountable for its practice of not properly compensating its employees for all hours worked and non-compliant meal and rest breaks. After speaking with the attorneys, I investigated class action lawsuits on my own and did some research into the leading class action and employment law firms in California for approximately 7 hours. Thereafter, I consulted with the attorneys at Lawyers *for* Justice, PC for 6 hours discussing my situation, class action lawsuits in general, and what it means to join the lawsuit as a named plaintiff and proposed class representative.

3. I have spent over 15 hours meeting with my attorneys regarding the case and fulfilling my responsibilities as a named plaintiff and class representative, which included gathering documents concerning my employment with Defendant, reviewing documents with my attorneys and answering their questions, providing information regarding the duties of hourly-paid, non-exempt employees, and helping develop a strategy as to what documents and information to obtain from Defendant. I routinely checked in with my attorneys and their staff to make sure that they were updated with my most current information and any additional information that I had obtained.

4. Since becoming involved in this matter, I was available to answer any questions my attorneys had, and available to speak and meet with my attorneys whenever they needed me.

1 I responded to them as quickly as possible and gave them as much information and identified as
2 many documents as I could. I spent at least 12 additional hours speaking with my attorneys
3 about the case, identifying potential witnesses, providing my attorneys with documents and
4 information concerning the case, and also describing policies, practices, and procedures of
5 Defendant. During the discovery phase of the litigation, I spent approximately 15 additional
6 hours reviewing Defendant's discovery requests (including approximately fifty-two (52) form
7 interrogatories, one hundred and thirty six (136) special interrogatories, and approximately sixty
8 (60) requests for production of documents), locating documents, and providing documents,
9 responses, and supplemental responses to my attorneys.

10 5. On July 11, 2021, I attended deposition that lasted approximately 4.50 hours. I
11 spent at least 4 hours preparing for the deposition. After the deposition, I spent at least 3 hours
12 reviewing my testimony and discussing the contents of the deposition transcript with my
13 attorneys.

14 6. As far as the settlement is concerned, I was available to review documents and
15 answer any questions my attorneys had. I spent about 3 hours reviewing the settlement
16 agreement and about 2 hours asking questions and discussing the potential settlement with my
17 attorneys before signing the settlement agreement.

18 7. I believe that I have done everything that my attorneys have asked of me and have
19 tried, to the best of my ability, to represent the class. I think my efforts helped to get the result
20 obtained in this case, and as a class representative, I respectfully request that the Court award me
21 a service payment in the amount of \$10,000.00 for my active participation in this case. Taking
22 into consideration the time that I have dedicated to this case, I believe that this amount is
23 reasonable.

24 8. I am not related to anyone associated with Lawyers *for* Justice, PC.

25 9. I have not entered into any undisclosed agreements, nor have I received any
26 undisclosed compensation in this case. The only compensation I will receive is whatever amount
27 the Court awards as a service payment, as well as my individual settlement payment.

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

12/30/2021

3 Executed this ____ day of December 2021, at Hayward, California.

4 Electronically Signed 2021-12-30 23:58:30 UTC - 208.3.194.135
Davian Montgomery
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