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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF YOLO**

12 HILARY CEARLEY and YEKATERINA)
13 KUCHEROVA, individuals, on behalf of
14 themselves and on behalf of all persons similarly
15 situated,

16 Plaintiffs,

17 vs.

18 UNIVERSITY RETIREMENT COMMUNITY)
19 AT DAVIS, INC., a Corporation; PACIFIC)
20 RETIREMENT SERVICES, INC., a)
21 Corporation; and DOES 1 through 50, inclusive,)
22 Defendants.)

Case No. CV2021-0524

[Consolidated with Case No. CV2021-0531]

**DECLARATION OF HILARY
CEARLEY IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: February 15, 2023

Hearing Time: 9:00 a.m.

*[Hearing scheduled by Order dated
September 28, 2022 at paragraph 12]*

Judge: Hon. Samuel T. McAdam

Dept: 10

Action Filed: March 26, 2021

Trial Date: Not Set

1 I, Hilary Cearley, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Final Approval of
4 Class Settlement and in support of my application for a Class Representative Service Payment.
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6 2. I have personal knowledge of all the facts stated herein. I could and would competently
7 testify under oath to these facts in court if requested to do so.

8 3. I worked for the defendants (hereinafter referred to as "University Retirement") from
9 October of 2019 to July of 2020 and I was classified by University Retirement as an hourly, non-
10 exempt employee during that time period.

11 4. I retained the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP, who are
12 experienced in both class action & PAGA representative action litigation and claims against
13 employers for violations of the California Labor Code. I have no personal relationship or family
14 ties to my attorneys or any officer of the Court. I am not aware of having any actual or potential
15 conflicts of interest with another member of the class in this case nor am I aware of having any
16 actual or potential conflicts of interest with ILYM, the settlement administrator. I am not aware
17 of any other pending matter or action asserting claims that will be extinguished or adversely
18 affected by this settlement.
19

20 5. I decided to file this class action lawsuit for the benefit of myself and other current
21 and former hourly, non-exempt employees who worked for University Retirement and be a class
22 representative because I felt that my legal rights as an employee and others like me were
23 violated. For example, I was often required to clock out and continue to work during what should
24 have been my off-duty meal period. This occurred, for example, when I had to deal with late
25 admissions to the retirement community or late discharges. I also worked off the clock after my
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1 shift ended from time to time dealing with reports for the next ward clerk, answering questions
2 from residents and answering phone calls. As such, I was not paid minimum or overtime wages
3 for this work done off the clock during my meal periods and after my shift ended. I also never
4 received any meal break penalty payments despite being made to work through meal periods on
5 a regular basis. I also did not receive compliant rest periods because University Retirement had
6 a policy requiring employees to remain on the premises during their rest breaks. I should have
7 been allowed to leave the premises during my rest breaks if I chose to do so but this was not the
8 case. As a result I was unable to receive compliant duty-free rest breaks nor was I paid any rest
9 break penalty payments for these violations. I also had to use my cell phone for work-related
10 purposes but University Retirement did not reimburse me for the cost associated with using my
11 personal cell phone for work-related issues.
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14 6. This class action case was filed on March 26, 2021. Before the complaint was filed I
15 spoke to my attorneys several times and discussed how University Retirement implemented its
16 company policies and procedures. I also assisted my attorneys in their investigation into my
17 claims by providing them documents and answering their questions. I reviewed the complaint
18 before it was filed and after it was filed I was given access to an electronic file sharing program
19 that alerted me via email when important documents were filed so that I could review them and
20 keep up with the developments in the case which I understood was one of my duties as a class
21 representative. I would also contact my attorneys from time to time if I had any questions about
22 the case.
23

24 7. Even though this action is in the process of settling, I was and remain prepared to
25 perform all the duties of a class representative. I understand that as a class representative I have
26 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent hourly,
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1 non-exempt employees who worked for University Retirement during the class period. I have
2 understood that as a fiduciary, I have a duty to prosecute this action for the benefit of the
3 members of the class and surrender any right to compromise the group action for an individual
4 gain.

5
6 8. I understood that being a plaintiff/class representative in this case meant that I
7 was seeking damages not only for myself but also other current and/or former hourly, non-
8 exempt employees working for University Retirement in California. I felt that this group of
9 employees were not aware of their labor law rights and even if they were they would probably be
10 apprehensive about speaking up or even simply because of the time, effort and risk involved in
11 filing a class action lawsuit.

12
13 9. I understood that being a part of this lawsuit involved risks. For example, my
14 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
15 pay for all or part of the attorney fees and costs paid by University Retirement to defend this
16 lawsuit. Also, I knew there was a risk that future employers, if they ever found out about this
17 lawsuit, could hold it against me or downgrade me as a potential hire. As one of only two named
18 Plaintiffs in this case and in light of the fact this case is in the public record it would not be
19 difficult for a future employer to become aware I sued a former employer for labor law
20 violations. Ultimately I decided these risks were worth it and decided to fight for my rights and
21 the rights of others regardless of the risks, time and effort I spent on this case.

22
23 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
24 kept up to date on important developments by reviewing court filings that were made available to
25 me electronically as I described above.

26 11. A mediation took place on January 26, 2022 with Tripper Ortman, an experienced
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1 mediator of wage and hour class actions. Following the all-day mediation session, the parties
2 agreed to settle the action based on a mediator's proposal. I communicated with my attorneys
3 regarding the terms of the settlement which was reached between the parties and understood that
4 I was representing absent class members and therefore wanted the best possible result to be
5 obtained for the class and I believe a very positive result was in fact achieved via settlement. I
6 reviewed and signed the Memorandum of Understanding on February 3, 2022 and when the final
7 settlement papers were ready, I closely reviewed the Settlement Agreement which I signed on
8 June 3, 2022.

10 12. I have been actively involved with this class action lawsuit performing the duties
11 described above. Although I did not keep time records, I was in regular contact with my
12 attorneys, reviewed court filings and spent a significant amount of time on the issues presented
13 during the lawsuit and in the settlement process. I estimate that I spent approximately 40 hours
14 working on this case up until this point. I believe I have been diligent and have done what is
15 expected of a named plaintiff and class representative to date, and will continue to do so. I have
16 and always will maintain the best interest of the class.

18 13. My attorneys explained to me that the settlement process involves a two-step
19 review by the Court to determine whether the settlement is fair before approving the settlement.
20 I know this process also involves notifying all class members of the settlement terms and of their
21 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
22 settlement.

24 14. I believe I did the right thing by filing this case on behalf of the class who are in
25 line to receive monetary payments as a result of this case and settlement. I also believe that the
26 requested Class Representative Service Payment of \$10,000 from the settlement is fair

1 compensation for the work I performed and the risks I undertook.

2 15. As part of the settlement it was necessary for me to sign a general release of
3 claims I may have against University Retirement. I believe the Class Representative Service
4 Payment I have requested provides me with some compensation for this agreed release.
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6 16. In light of all the time and effort I have spent on this case, the risk I undertook by
7 suing a former employer, the exposure to being responsible for paying University Retirement's
8 costs in the event we did not win the case, the reputational risk that future employers may hold
9 this lawsuit against me, the general release, and in light of the size of the settlement, I believe the
10 request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

13 Executed on Jan 16, 2023, at Woodland, CA
14 (city, state)

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16 Hilary Cearley (Jan 16, 2023 16:15 PST)
17 Hilary Cearley
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