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Attorneys for Plaintiff and all aggrieved employees

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

GERALD WHILTON OLIVAS, an individual,  
on behalf of the State of California, as a private  
attorney general,

**PLAINTIFF,**

v.

THE UNIVERSITY OF PHOENIX, INC.; and  
DOES 1 thru 50, inclusive,

**DEFENDANTS.**

CASE NO. RG21091953

[Case Assigned for All Purposes to Hon. Frank  
Roesch in Dept. 17]

**DECLARATION OF GERALD  
WHILTON OLIVAS IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
APPROVAL OF REPRESENTATIVE  
ACTION SETTLEMENT**

Date: May 9, 2024

Time: 3:30 P.M.

Dept.: 17

Complaint Filed: February 19, 2021

FAC Filed: April 26, 2021

Trial Date: None Set

**Reservation No. 713827794848**

**DECLARATION OF GERALD WHILTON OLIVAS**

I, Gerald Whilton Olivas, state and declare as follows:

1. I am a competent adult, over the age of eighteen, and the named Plaintiff in the matter of GERALD WHILTON OLIVAS an individual, on behalf of the State of California, as a private attorney general, v. THE UNIVERSITY OF PHOENIX, INC., and DOES 1 thru 50, inclusive, Alameda County Superior Court, Case No. RG21091953. The foregoing is based upon my personal knowledge and, if called as a witness, I could and would competently testify and present certifiable and cross-checked documentation thereto. I am making this sworn declaration in support of my claim and the claims of my co-workers, and in support of my qualifications as the named Plaintiff. If called as a witness, I could and would competently, with the support of verifiable evidence, testify as to the truth of the matters set forth herein.

2. I worked as an employee of Defendant, The University of Phoenix, Inc. ("University of Phoenix" or "Defendant"). As an employee of Defendant, I contend that I did not receive proper reimbursement for necessary expenditures incurred to perform required online, remote work duties and no University of Phoenix on-ground facilities were every promoted, offered, or made available to me to perform my required work duties. I was a part-time and continuous, for over 21 years, adjunct professor who worked from home to teach online courses to students, conduct online administrative student support functions, satisfy employer required in-service training, maintain third-party human subjects' privacy and security certifications, and fulfill professional scholarly publishing requirements of Defendant. I used my personal computer, internet services, cellular data and voice services, and additional personal facilities to perform all of my online work. This includes, expenses for up-to-date: internet connection services; modem; router; computer; printer; computer support service agreement; operating system, backup, and application software; software malware and virus protection; mobile phone (for Defendant's University of Phoenix app, Defendant's required University of Phoenix email and student iMessage/SMS text messaging); cellular data service; and home office expenses for chair, desk, file cabinet, supplies, utilities, insurance, and miscellaneous office expenses such as paper and ink

1 cartages, without reimbursement. Maintaining reliable and secure internet connectivity was  
2 essential to fulfilling my online work duties requiring not only access the core Blackboard Ultra  
3 student instructional system but several other University of Phoenix required to accomplish work  
4 duties online software including eCampus Portal, TK20 Assessment Software, IRBNet  
5 Assessment, Microsoft 365 Teams, Research Hub, and UKG (Ultipro) Attendance and Pay system.

6 3. Prior to securing Counsel, on October 6, 2020, I drafted on my own and  
7 electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and  
8 Workforce Development Agency/Department of Industrial Relations website  
9 (<https://dir.tfaforms.net/308>) and mailed by certified mail, return receipt requested, to Defendant  
10 setting forth the specific facts and theories of the violations alleged against Defendant, as  
11 prescribed by Labor Code § 2699 et seq. As a non-lawyer, this was time consuming and  
12 intimidating process for me. I estimate that I spent 25 hours carefully and in detail researching the  
13 PAGA notice requirements which included studying California Labor Code 2699 law pertaining  
14 to PAGA Claims, numerous other recent PAGA cases, preparing the PAGA notice letter, and  
15 uploading and closely monitoring the notice letter and my detailed five page New PAGA Claim  
16 Notice Summary supporting documentation.

17 4. After uploading and sending the initial PAGA notice letter, I then spent significant  
18 time researching Counsel who could assist in pursuing the matter. I only wanted to work with  
19 Counsel who had specific experience in these types of employment matters. After researching  
20 several law firms, I ultimately identified Kingsley & Kingsley, APC and felt very confident  
21 working with them and they could best represent the interests of the aggrieved employees. I  
22 estimate that I spent 15 hours researching competent law firms online, sending emails, and making  
23 calls and inquiries to law firms. In this pursuit to find Counsel I reviewed numerous other similar  
24 PAGA cases online, including cases involving University of Phoenix and other predominantly  
25 online Universities, communicated with other online faculty at the University of Phoenix, as well  
26 as I solicited help from San Diego County Bar Association Legal Referral Services and San Diego  
27 Legal Aid Society. In addition, in my pursuit of capable Counsel with the expertise required for  
28

1 my case and with good reviews I used the Better Business Bureau, Trustpilot, and Yelp.

2 5. I retained Kingsley & Kingsley in approximately January/February 2021. In an  
3 abundance of caution, on February 18, 2021, I worked with Counsel and assisted in drafting,  
4 reviewing, and refining for complete accuracy, assuring that documentation was available to verify  
5 all presented facts, a supplemental PAGA Claim Notice to the LWDA and Defendant.

6 6. The next day, on February 19, 2021, the complaint in this action was filed. Before  
7 filing the complaint, I reviewed it very closely with Counsel and provided my feedback, comments,  
8 and spent approximately 25 hours compiling a vast amount of information, assuring easy  
9 availability from personal and third-party sources, of precise and certifiable accurate documents to  
10 fully support all of the complaint. Many of my detailed suggestions ultimately made it into the  
11 complaint.

12 7. The complaint alleged a single cause action for: (1) Penalties Pursuant to Labor  
13 Code § 2699, et seq. for violations of Labor Code § 2802.

14 8. On April 26, 2021, a First Amended Complaint (“FAC”) was filed as the 65 day  
15 tolling on the supplemental letter had lapsed.

16 9. On June 17, 2021, Defendant filed a Motion to Strike Plaintiff’s PAGA claims  
17 based on an argument that my original October 6, 2019 PAGA notice was defective and cannot  
18 serve to start the tolling period for the statute of limitations. The Court denied Defendant’s motion  
19 and found that the letter I drafted, uploaded, and mailed on my own – prior to retaining counsel --  
20 adequately put the LWDA and Defendant on notice.

21 10. I have spent significant time throughout this action working with Plaintiff’s Counsel  
22 involving numerous phone conversations, e-mails, and document uploading to Counsel. In these  
23 communications I have generated 302 relevant files and have sent 249 emails, many with  
24 attachments, to my Counsel. I assisted the attorneys closely with the fact investigation and  
25 gathering of information including discussing my work experience and the experience of others  
26 that I had observed while working for Defendant and provided all relevant employment documents  
27 in my possession. I provided hundreds of pages of documents such as Defendant’s written policies  
28

1 and faculty handbooks, my timesheets and pay statement records, and documentation of my online  
2 work home expenses such as bills and receipts. I have further shared numerous accommodations  
3 and awards that I have received from University of Phoenix administration as well as the many  
4 compliments and praise from my over 900 students from facilitation of over 200 classes in my over  
5 21 years of continuous employment. I carefully compiled these documents to assist in litigating  
6 the matter. I estimate that I spent 25 hours locating, organizing, and providing documents, and  
7 assuring the accuracy, credibility, and ease of availability of these documents, to my Counsel.

8  
9 11. I have also spent a lot of time researching similar lawsuits against online  
10 universities and similar PAGA cases to understand the ranges in valuation for PAGA trials and  
11 PAGA settlements. I estimate that I spent 15 hours researching similar matters online.

12 12. My deposition was taken on two consecutive days. I sat for a videotaped deposition  
13 on February 3 and February 4, 2022. February 3<sup>rd</sup> was a full day and, as I recall, February 4<sup>th</sup> went  
14 well into the afternoon. I estimate that the total deposition time was 12 hours. I also spent many  
15 hours preparing for the deposition on my own and with Counsel. I estimate that I spent 12 hours  
16 preparing for my deposition to be taken and an additional 4 hours reviewing the transcripts of the  
17 deposition for accuracy and completeness.

18 13. I also attended a full-day remote mediation on February 22, 2022. I actively  
19 participated in discussions with Plaintiff's Counsel and shared my knowledge and insights with  
20 the mediator in order to help obtain a favorable settlement. The case did not settle that day, and I  
21 participated in at least 2 length follow-up telephone discussions with the mediator and my Counsel  
22 to discuss the case. Between the mediation itself and the subsequent communications with the  
23 mediator, I estimate that I spent 10 hours.

24 14. Throughout the entirety of this litigation, I have maintained consistent and regular  
25 contact with Plaintiff's Counsel, often speaking multiple times per week and month depending on  
26 the level of activity in the case. I estimate that I have spent 25 hours on phone calls with my  
27 Counsel in this matter which also includes attending 2 online Superior Court, County of Alameda,  
28 hearings.

1           15. I was aware that by helping to initiate this lawsuit, my name as the named Plaintiff  
2 would become known and it was possible that my involvement in this matter could make it more  
3 difficult for me to obtain employment in this field. I do believe that filing this lawsuit has greatly  
4 impacted my professional reputation in the field of higher education teaching and in the field of  
5 scholarly research (higher education teaching and academic research rely heavily on past work  
6 experience, achievements, and professional recommendations to obtain professional assignments  
7 and research scholarships). Regardless, I believed it was important to proceed with this matter on  
8 my behalf and on behalf of all others who were subject to similar problems during their  
9 employment with Defendant.

10           16. Based upon my active participation in this case, I understand the merits of this  
11 settlement and I strongly support the settlement and believe it is fair and reasonable-for the 1,550  
12 aggrieved employees settlement members for their 46,188 bi-weekly pay periods. I believe this  
13 settlement will help to benefit these aggrieved employees.

14           17. It is my opinion that a fair and adequate Service Award for me as a named Plaintiff  
15 is \$50,000.00. I believe that it is fair and reasonable in view of all of the work I have performed in  
16 my role as a named Plaintiff as well as the negative impact on future professional endeavors. As a  
17 named Plaintiff, I actively participated in all stages of the litigation as detailed above and have  
18 always maintained the best interest of the aggrieved employees while performing my named  
19 Plaintiff duties.

20           18. I recognize that this is large enhancement request and larger than common  
21 enhancement awards made by courts in similar cases. I believe it is warranted here based on my  
22 initiation of the PAGA notice by myself, my very active participation, and the estimated 168 hours  
23 I have spent on this matter.

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

26           Executed this 25 day of March, 2024 at Carlsbad, California.

27           DocuSigned by:  
28           Gerald Olivas

Gerald Whilton Olivas

(PROOF OF SERVICE)  
[CCP 1013(a)(3)]  
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On April 12, 2024, I served all interested parties in this action the following documents described as: **DECLARATION OF GERALD WHILTON OLIVAS IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

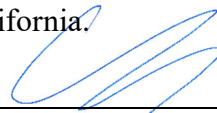
R. Brian Dixon  
bdixon@littler.com  
Kurt R. Bockes  
kbockes@littler.com  
**Littler Mendelson, P.C.**  
333 Bush Street, 34th Floor  
San Francisco, CA 94104

**[XX] BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

**[XX] BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

**[XX] (STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 12, 2024, at Woodland Hills, California.



Michelle Tanzer