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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10
11 BRADLEY LUTAT, on behalf of the State of
California, as a private attorney general,

12
13 Plaintiff,

14 vs.

15
16 BARRY'S BOOTCAMP, LLC, a California
Limited Liability Company; BARRY'S
17 BOOTCAMP SAN DIEGO LLC, a California
Limited Liability Company; BARRY'S BAY
18 AREA, LLC, a Limited Liability Company; and
Does 1 through 50, Inclusive,

CASE No. **37-2020-00044771-CU-OE-CTL**

13 **DECLARATION OF BRADLEY**
14 **LUTAT IN SUPPORT OF MOTION**
15 **FOR FINAL APPROVAL OF CLASS**
16 **SETTLEMENT**

Hearing Date: January 20, 2023

Hearing Time: 9:00 a.m.

[Hearing scheduled by Order dated
September 16, 2022]

Judge: Hon. Eddie C. Sturgeon
Dept: 67

Action Filed: December 7, 2020

Trial Date: Not Set

1 I, Bradley Lutat, 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 ("Barry's Bootcamp") from August of 2019 to December of
9 2019 and I was classified by Barry's Bootcamp as non-exempt employee during that time period.

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

19 5. I decided to file this lawsuit for the benefit of myself and other current and former
20 non-exempt employees who worked for Barry's Bootcamp and be a class representative because
21 I felt that my legal rights as an employee and others like me were violated. For example,
22 numerous times throughout my employment while I was on my lunch break, I was interrupted
23 and instructed to perform work such as folding towels and tidying up. I was paid some but not
24 all the meal break premiums payments for these violations that occurred. As to rest breaks, I
25 often did not receive a rest break and when I did I was required to stay on premises. I should
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27

1 have been allowed to leave the premises if I chose to do so in order to enjoy a duty-free rest
2 period but this was not the case. I also never received any rest break premium payments for any
3 rest break violations. I also had to use an application on my cell phone called "Paycom" in order
4 to clock in and out of my work shift but Barry's Bootcamp did not reimburse me for the cost
5 associated with using my personal cell phone for work-related issues.

6
7 6. This action was filed on December 7, 2020. Before the complaint was filed I spoke to
8 my attorneys several times and discussed how Barry's Bootcamp implemented its company
9 policies and procedures. I also assisted my attorneys in their investigation into my claims by
10 providing them documents and answering their questions. I reviewed the complaint before it
11 was filed and after it was filed I was given access to an electronic file sharing program that
12 alerted me via email when important documents were filed so that I could review them and keep
13 up with the developments in the case which I understood was one of my duties. I would also
14 contact my attorneys from time to time if I had any questions about the case.

15
16 7. Even though this action is in the process of settling, I was and remain prepared to
17 perform all the duties of a class representative. I understand that as a class representative I have
18 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent non-
19 exempt employees who worked for Barry's Bootcamp during the class period. I have understood
20 that as a fiduciary, I have a duty to prosecute this action for the benefit of the members of the
21 class and surrender any right to compromise the group action for an individual gain.

22
23 8. I understood that being a plaintiff/class representative in this case meant that I
24 was seeking damages not only for myself but also other current and/or former non-exempt
25 employees working for Barry's Bootcamp in California. I felt that this group of employees were
26 not aware of their labor law rights and even if they were they would probably be apprehensive

1 about speaking up or even simply because of the time, effort and risk involved in pursuing a
2 class action lawsuit.

3 9. I understood that being a part of this lawsuit involved risks. For example, my
4 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
5 pay for all or part of the attorney fees and costs paid by Barry's Bootcamp to defend this lawsuit.
6 Also, I knew there was a risk that future employers, if they ever found out about this lawsuit,
7 could hold it against me or downgrade me as a potential hire. As the only named Plaintiff in this
8 case it would not be difficult for a future employer to become aware I sued a former employer
9 for labor law violations. Ultimately I decided these risks were worth it and decided to fight for
10 my rights and the rights of others regardless of the risks, time and effort I spent on this case.
11

12 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
13 kept up to date on important developments by reviewing court filings that were made available to
14 me electronically as I described above.
15

16 11. A mediation took place on August 12, 2021 with Jeffrey Krivis, an experienced
17 mediator of wage and hour class and representative actions. Following the all-day mediation
18 session, the parties agreed to settle the action based on a mediator's proposal. I communicated
19 with my attorneys regarding the terms of the settlement which was reached between the parties
20 and understood that I was representing absent class members and therefore wanted the best
21 possible result to be obtained for the class and I believe a very positive result was in fact
22 achieved via settlement. I reviewed and signed the Memorandum of Understanding on August
23 14, 2021 and when the final settlement papers were ready, I closely reviewed the Settlement
24 Agreement which I signed on February 4, 2022.
25

26 12. I have been actively involved with this lawsuit performing the duties described above.
27

1 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
2 filings and spent a significant amount of time on the issues presented during the lawsuit and in
3 the settlement process. I estimate that I spent approximately 40-50 hours working on this case
4 up until this point. I believe I have been diligent and have done what is expected of a named
5 plaintiff and class representative to date, and will continue to do so. I have and always will
6 maintain the best interest of the class.
7

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

14 14. I believe I did the right thing by filing this case on behalf of the class who are in
15 line to receive monetary payments as a result of this case and settlement. I also believe that the
16 requested Class Representative Service Payment of \$10,000 from the settlement is fair
17 compensation for the work I performed and the risks I undertook.

18 15. As part of the settlement it was necessary for me to sign a general release of all
19 claims I may have against Barry's Bootcamp. I believe the Class Representative Service
20 Payment I have requested provides me with some compensation for this agreed release.
21

22 16. I have not entered into any undisclosed agreements nor have I received any
23 undisclosed compensation in this case. The only compensation I will receive is whatever amount
24 the Court awards as a service payment, as well as my share as a class member of the settlement
25 fund.
26

27 17. In light of all the time and effort I have spent on this case, the risk I undertook by
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1 suing a former employer, the exposure to being responsible for paying Barry's Bootcamp's costs
2 in the event we did not win the case, the reputational risk that future employers may hold this
3 lawsuit against me, the general release, and in light of the size of the settlement, I believe the
4 request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

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8 Executed on Dec 22, 2022, at Los Angeles, California.
(city, state)

9 *Bradley Lutat*

10 Bradley Lutat (Dec 22, 2022 18:09 PST)

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