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Attorneys for Plaintiffs Daniel Colmenares and Cathy Hernandez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DANIEL COLMENARES, an individual,
CATHY HERNANDEZ, and individual, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

FREE ENERGY SAVINGS COMPANY,
LLC, a California Limited Liability
Corporation; ALLAN RAGO, an individual;
KRISTINE VANNEMAN, an individual;
LEFLORIDA LESLIE, an individual and
DOES I through 100, inclusive;

Defendants.

Case No. CIVSB2028719
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Jessica Morgan
Department S26

REPRESENTATIVE ACTION
DECLARATION OF DANIEL
COLMENARES IN SUPPORT OF MOTION
FOR APPROVAL OF PRIVATE
ATTORNEYS’ GENERAL ACT (“PAGA”)
SETTLEMENT

Date: December 13, 2023
Time: 8:30 a.m.
Dept: S26
Judge: Hon. Jessica Morgan

Complaint filed: December 9, 2020
Trial date: Not Set

1 I, Daniel Colmenares, declare as follows:

2 1. I am one of the named Plaintiffs in the above-referenced action filed on behalf of
3 the State of California and Aggrieved Employees against Defendants FREE ENERGY
4 SAVINGS COMPANY, LLC, ALLAN RAGO, KRISTINE VANNEMAN, and LEFLORIDA
5 LESLIE (“Defendants” or “Free Energy”), seeking civil penalties for violation of certain labor
6 code violations. I have personal knowledge of all matters stated herein and could competently
7 testify as to these matters if called as a witness, except as to the matters stated upon information
8 and belief, and as to those matters, I believe them to be true.

9 2. I have reviewed and signed the proposed settlement agreement entitled “Joint
10 Stipulation of PAGA Settlement and Release.” Based on my involvement and the issues and
11 risks involved in this case, I believe the proposed settlement obtained on behalf of the PAGA
12 Members is a good result.

13 3. I am not aware of any interests I have adverse to the interests of the other PAGA
14 Members, and I do not have any conflicts that would keep me from adequately representing the
15 PAGA Members.

16 4. I am not related to anyone associated with Cohelan Khoury & Singer or Srourian
17 Law Firm, P.C. My attorneys explained to me the contingency fee rate. My attorneys explained
18 the Co-Counsel and Joint Prosecution Agreement between the firms to me and I reviewed and
19 signed it.

20 5. I worked for Free Energy as an Outreach Specialist from approximately 2013 to
21 2020, marketing and selling Free Energy’s weatherization services and signing up new
22 customers. I was required to complete training specific to each gas company Free Energy
23 contracted with. I was also required to self-generate new customer leads by canvassing potential
24 neighborhoods. As a condition of my employment, Free Energy required me to set up my own
25 business entity. I set up a fictitious business entity after signing Free Energy’s independent
26 contractor agreement because I was told that I had to in order to qualify to work for Free
27 Energy.

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1 6. After my employment ended, I searched for attorneys to talk to about my work
2 experiences and labor violations I suffered during my employment with Free Energy. I retained
3 the lawyers with the Srourian Law Firm, P.C. and Law Offices of Cohelan Khoury & Singer to
4 pursue this case as a PAGA Representative action for Free Energy's misclassification of
5 Outreach Specialists, such as myself, as independent contractors, which resulted in a failure to:
6 pay all my wages, provide meal and rest periods, reimburse my business-related expenses, and
7 provide me with accurate wage statements.

8 7. In bringing this case for myself, the state, and the other aggrieved employees, I
9 understood a lot of work would be required and I was willing to, and did, do the work to keep
10 the case moving forward. I had many calls and exchanged many emails with my attorneys,
11 asking questions about the progress of the case, the meaning of the developments, and
12 responding to all questions they had about my employment. For instance, my attorneys asked
13 me to provide detailed factual information to support the claims in this case and to remain
14 available as necessary to move the case forward.

15 8. Prior to filing this lawsuit on behalf of myself and other aggrieved employees, I
16 was informed of certain risks, but I decided to move forward. Those risks included having to
17 pay some or all of Free Energy's litigation costs if this case were lost, and that as a Named
18 Plaintiff, my name could be found when doing a Google search which could potentially affect
19 future job opportunities with employers who may respond negatively to employees who assert
20 their rights under the law. Even with these risks, I agreed to proceed because I believed Free
21 Energy's employment policies took advantage of employees.

22 9. I understood representing a group of employees and the State, and not just
23 myself, the case would take much longer, I would not receive as much, and I would be the
24 plaintiff in a publicly filed lawsuit, and not have a chance for a quick or private settlement.

25 10. I provided information to my attorneys, and their staff, used to file a claim with
26 the State of California, which I understood was required before filing certain claims in court.

27 11. After filing the State claim, I continued to respond to requests for information
28 from my attorneys as they drafted the lawsuit and provided additional information, and

1 reviewed the lawsuit before it was filed.

2 12. As part of my duties and responsibilities, and with the assistance of my
3 attorneys, I provided responses to Form and Special Interrogatories, Requests for Admission,
4 and Requests for Documents.

5 13. I was informed that Free Energy had the right to take my deposition, and that the
6 preparation and deposition itself could take multiple days. Although my deposition was not
7 taken, I feel I would have been adequately prepared and comfortable to give testimony on my
8 experiences.

9 14. Because I stayed in constant contact with my attorneys, I knew that mediation
10 had been scheduled. To prepare to mediate, I discussed potential strengths and weaknesses in
11 detail with my attorneys. I believe my thorough knowledge of Free Energy's practices helped
12 my attorneys to evaluate the claims and prepare for mediation. On the day of mediation, I made
13 sure I was available by phone. I consented to the settlement, and later, reviewed and signed the
14 settlement agreement.

15 15. I have taken my duties and responsibilities as a Named Plaintiff seriously by
16 doing all of those things described above and staying in touch with my attorneys throughout the
17 case, and by doing all that was asked of me. Because of this case, the other aggrieved
18 employees will receive money they otherwise may not have.

19 16. My involvement in this case includes: (1) searching for and finding an attorney
20 to handle this case; (2) initiating the case and being an active participant throughout; (3)
21 numerous conferences with my attorneys; (4) searching for and providing information to my
22 attorneys; (5) responding to written discovery; (6) risking the payment of Free Energy's legal
23 costs and having a judgment entered against me if we lost the case; (7) being available the day
24 of mediation; (8) consenting to the Settlement, and then reviewing and signing the Settlement
25 Agreement; (9) facing the potential loss of job opportunities for having filed a lawsuit against a
26 former employer; and (10) the substantial time I spent on this case, both before and after it was
27 filed is time lost from pursuing other interests, and being with friends and family.

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I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 9/28/2023, in Pomona, California.

DocuSigned by:
Daniel Colmenares
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