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Attorneys for Plaintiff and all Aggrieved Employees

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MARVIN OSOY, individual, on behalf of the
State of California, as private attorney general,
and on behalf of all aggrieved employees,

Plaintiff,

v.

CALIBER HOLDINGS CORPORATION, a
Delaware corporation; and DOES 1 to 100,
inclusive,

Defendant.

CASE NO. 21STCV12589
Complaint Filed: April 1, 2021

CLASS ACTION

**DECLARATION OF MARVIN OSOY
IN SUPPORT OF PLAINTIFF'S
MOTION FOR ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Judge: Hon. Alison Mackenzie
Hearing Date: April 11, 2024
Time: 8:30 a.m.

DECLARATION OF MARVIN OSOY

INTRODUCTION

1. I am the named Plaintiff and class representative in this matter. I am over 18 years of age. I have personal knowledge of the facts set forth in this declaration and, if called upon to testify I could and would testify competently thereto.

2. At all times relevant to this case, I was a California resident who was formerly employed by Defendant as an exempt Production Manager at Caliber's Valencia. Throughout my employment, employees, including myself, were not paid overtime wages for hours worked in excess of eight hours per day and/or forty hours per week. Although classified as exempt, my duties does not meet the requirements set forth in IWC Wage Order No. 4. For instance, I would usually

1 spend only around two hours of my workday in the office to attend a production meeting that my
2 boss would run. The rest of my workday would then be spent going around the shop to make sure
3 things ran smoothly – I would go over paperwork with technicians and service advisors, walk
4 around to check cars that are done to ensure that they pass the company’s quality standards before
5 they are released, help out in detailing as needed, and process all new cars that came in. My tasks
6 would sometimes even include taking out the shop and office trash. While I supervised around 20
7 staff, I was not responsible for their schedule, discipline, hiring, training, and firing. I had no power
8 to make my own decisions without a manager since all of my decisions needed my manager’s
9 approval.

10 3. Throughout my employment, I was systematically misclassified by Defendant as
11 “exempt” when in fact I was not. Thus, even if I regularly worked for 50 hours per week or in
12 excess of 8 hours a day and 40 hours per week, I did not receive overtime compensation. In
13 addition, I did not receive meal and rest periods although I am entitled to them. I also had to use my
14 personal mobile phone to make business calls. However, Defendant did not reimburse my business
15 expenses. I was laid off on April 2, 2020, but my final check was only paid by Caliber on April 6,
16 2020.

17 4. I am aware of all the major deal points of the proposed Settlement Agreement,
18 including the Maximum Settlement Amount of \$610,000.00, the sum of up to \$203,333.33 as
19 attorneys’ fees, the sum of \$15,000.00 as costs to Class Counsel, the Settlement Administration
20 Expenses, not to exceed \$10,000.00, the \$10,000.00 Service Enhancement award payable to the
21 Class Representative, and the payment to the LWDA for their portion of the PAGA penalties in the
22 amount of \$7,500.00.

23 5. I understand the scope of the class. The Class shall mean (a) All individuals
24 employed by Caliber as exempt Production Managers in California between January 27, 2020 and
25 the Preliminary Approval Date (“PAGA Members”); (b) All individuals employed by Caliber as
26 exempt Production Managers in California between April 1, 2018 and the Preliminary Approval
27 Date, excluding any individuals who previously signed releases covering the Released FLSA
28 Claims (“FLSA Members”); and (c) All individuals employed by Caliber as exempt Production

1 Managers in California between April 1, 2017 and the Preliminary Approval Date, excluding any
2 individuals who previously signed releases covering the Released Class Claims (collectively, “Class
3 Members”).¹

4 6. I agree that the settlement is fair and reasonable given all of Defendant’s various
5 defenses, including its financial challenges.

6 7. I believe my Service Enhancement Award of \$10,000.00 as proposed in the
7 Settlement Agreement is fair based on the time and effort I have devoted to this case as Class
8 Representative.

9 8. I am an adequate Class Representative since I committed to representing the
10 interests of the Class, have no interests that are averse to members of the Class, and understand and
11 accepted my duty to represent the best interests of the class. I provided my counsel with
12 information when asked which was crucial to the draft of the class complaint and mediation brief,
13 discussed settlement strategy with my counsel, spoke to other Class Members about their
14 experiences working for Defendant, and was available during the duration of the all-day mediation,
15 all of which demonstrated my commitment to the Class.

16 I declare under penalty of perjury under the laws of the United States and the State of
17 California that the foregoing is true and correct.

18 Executed on this March 20, 2024 in San Diego, California.

19
20
21 By: Marvin Osoy
22 864EBB32A7BD91F69DB51CF63CB431A1 ready**sign**
23 Marvin Osoy
24
25
26
27

28 ¹ Any Class Member hired after the date of preliminary approval shall not be included in the Settlement Class.