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MICHAEL HARRINGTON

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

MICHAEL HARRINGTON on behalf of
himself, and all others similarly situated, and
all aggrieved employees,

Plaintiff,

v.

CREATIVE SECURITY COMPANY, INC.;
and DOES 1 through 50, inclusive,

Defendants

Case No: RG21095377

CLASS & REPRESENTATIVE ACTION

*Assigned for All Purposes to the Honorable
Brad Seligman, Dept. 23*

**SUPPLEMENTAL DECLARATION OF
ROBERT SPENCER IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 10, 2022
Time: 3:00 p.m.
Dept. 23

Complaint Filed: April 9, 2021
FAC Filed: May 18, 2021

Reservation No: 972899859533

1 I, ROBERT SPENCER, declare as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I
3 am an associate with the law firm Keller Grover LLP, counsel for Plaintiff Michael Harrington
4 (“Plaintiff” or “Named Plaintiff”) and proposed Class Counsel in this action. I have personal
5 knowledge of the facts stated herein and, if called as a witness, I could and would testify
6 competently to the facts set forth below.

7 2. I make this declaration pursuant to the Court’s request at the May 10, 2022
8 preliminary approval hearing that Plaintiff’s Counsel submit an additional declaration outlining
9 the pre-settlement investigation performed by Plaintiffs’ Counsel in this matter.

10 3. Plaintiff did not propound formal discovery due to the parties’ early agreement to
11 mediate this action. As part of the agreement to mediate, the parties agreed to engage in informal
12 discovery in order to conserve time and expenses of both parties.

13 4. Prior to agreeing to mediation, Plaintiffs’ Counsel investigated Defendant’s
14 alleged adoption of an alternative workweek schedule by both reviewing the California
15 Department of Industrial Relations AWS website and meeting and conferring with opposing
16 counsel.

17 5. My office drafted and served on Defense Counsel a detailed mediation information
18 request consisting of 26 separate information requests. The requests sought data, information,
19 and policy documents for the class as well as the aggrieved employees, including the number of
20 putative class members and aggrieved employees, the workweeks and pay periods at issue, and
21 data related to departed putative class members and aggrieved employees in relation to Labor
22 Code § 203. The requests also sought information related to the number of shifts worked beyond
23 certain hours, which is related to the meal and rest break claims. It also sought policies and
24 documents related to timekeeping, overtime, the adoption of the alternative workweek schedule,
25 meal and rest breaks, and wage statements. It also requested a sample of time punches for 50
26 randomly selected class members.

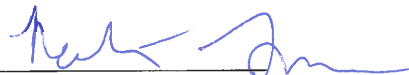
27 6. Defendant provided data and documents in response to the mediation information
28 requests. Defendant produced a spreadsheet containing the start and end date for each putative

class member and aggrieved employee, which was used to determine the number of workweeks and pay periods at issue, as well as provide the number of departed employees for Plaintiff's Labor Code § 203 analysis. Defendant provided various policy documents, including multiple employee handbooks, a meal period waiver/on-duty meal period agreement, information related to the adoption of the alternative workweek schedule, Plaintiff's personnel file, and Plaintiff's timecards and payroll records. Defendant also provided information related to coverage of certain work locations, which is related to the meal and rest break claims. While Plaintiff Counsel did not receive the requested sample, Plaintiffs' Counsel was of the opinion that, because the main claim related to the AWS issue, Plaintiff's time records as well as Defendants meal and rest break policies and the meal period waivers were sufficient documents to proceed with the mediation.

7. Plaintiff's Counsel did not ask for the contact information for the putative class. In this case, Plaintiff's Counsel determined that detailed interviews were unnecessary because the main claim centered around the legal questions of whether Defendant lawfully adopted an alternative workweek schedule and whether Defendant required on-site meal and rest periods. These claims would be proven based on documentary evidence as to whether Defendant lawfully adopted an alternative workweek schedule and legally required on-site meal and rest periods. Nonetheless, Plaintiffs' Counsel did interview an additional putative class member that contacted Keller Grover LLP.

8. I personally submitted this declaration to the LWDA website on May 17, 2022.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on this 17th day of May 2022 at San Francisco, California.


ROBERT SPENCER

PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **May 17, 2022**, in the case of *Harrington v. Creative Security Company, Inc., et al.*, Alameda County Superior Court Case Number RG21095377, I served the foregoing document(s):

**SUPPLEMENTAL DECLARATION OF ROBERT SPENCER IN SUPPORT OF
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

on the interested party(ies) below, using the following means:

Rona P. Layton, Esq.
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Attorneys for Defendant
CREATIVE SECURITY COMPANY, INC

☒	(BY ELECTRONIC SERVICE) by electronically mailing a true and correct copy in PDF format through our electronic mail system to the email address(es) set forth above, or as stated on the attached service list per agreement between the parties.
☒	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


JOEY GONZALEZ