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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ERNESTO RIVERA, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

DEFENDANT TECH, INC. f/k/a AMADA
MIYACHI AMERICA, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: CIVSB2114174
[Consolidated With Case No.: CIVSB2114736]

Assigned For All Purposes to:
Honorable David Cohn
Department S26

CLASS ACTION

**DECLARATION OF ERNESTO RIVERA RE
ADEQUACY IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: January 23, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department S26

Complaint Filed: May 18, 2021
Trial Date: None Set

DECLARATION OF ERNESTO RIVERA

I, **ERNESTO RIVERA**, declare that:

1. I am over eighteen (18) years old and am a resident of Adelanto, California. I make this declaration based on my personal knowledge. If called to testify, I could and would testify to the facts contained herein.

2. I am a former employee of Defendant Fiber Care Baths, Inc. ("Defendant"). I worked at Defendant from approximately 2019 to March 2020 as Stocker.

3. During my employment, I worked one (1) or more shifts over three and one-half (3.5) hours in length.

4. During my employment, I worked one (1) or more shifts between six to ten (6-10) hours in length.

5. During my employment, I worked one (1) or more shifts over ten (10) hours in length.

6. During the entirety of my employment, I was paid on an hourly basis and classified as a non-exempt employee by Defendant.

7. During my employment, I regularly did not receive compliant meal and rest breaks. Despite these violations, Defendant failed to pay me premium wages.

8. In addition, Defendant failed to reimburse me for incurring business expenses pursuant to the performance of my duties (*i.e.*, business purchases, personal cell phone use).

9. I know I am one of the proposed class representatives for this lawsuit and that I have the following duties as one of the class representatives:

- a. Represent the interests of all Class Members;
- b. Always consider the interests of the Class just as I would consider my own interests and put the interests of the Class before my own interests;
- c. Serve as one of the fiduciaries of the Class, meaning I cannot "sell out" the Class for my own personal gain;
- d. Actively participate in the lawsuit by, amongst other things, searching for documents, keeping in contact with my attorneys, and answering their questions as needed – which I believe I have done so far; and

- 1 e. Follow the progress of the lawsuit and provide all relevant facts to my attorneys.
2 f. In short, I understand I am pursuing claims on behalf of people that may not want to
3 or may be unable to file their own lawsuits.

4 10. I have spent a substantial amount of time on this litigation performing these duties as
5 one of the class representatives. Among other things, I have met with my attorneys concerning the case
6 and my many responsibilities as one of the class representatives. These many responsibilities included,
7 among other things: (a) gathering my employment documents; (b) reviewing documents with my
8 attorneys and answering any pertinent questions; (c) providing the names and contact information of
9 putative class members; (d) speaking with other current and former employees of Defendant; (e)
10 discussing my employment experience; (f) reviewing the operative complaint and Settlement
11 Agreement; (g) helping to develop a strategy to obtain additional documents from Defendant; and (h)
12 making myself available all day to remotely participate in and provide my input for mediation. I
13 routinely checked in with my attorneys and their staff to ensure they had my most current information
14 and any additional material I obtained from speaking to current and former employees.

15 11. Throughout the case, I have been available to speak and meet with my attorneys
16 whenever they needed me. I responded to my attorneys as quickly as possible and gave them as much
17 information as I could, including names of potential witnesses. As far as the settlement is concerned, I
18 was available to answer any questions my attorneys had. In short, I have expended a significant amount
19 of my time and resources to prosecute this matter. As described below, the violations I experienced
20 firsthand during my employment evidence my adequacy as one of the class representatives.

21 12. During my employment, Defendant's improper, uniform policies and practices forced
22 me to work through nearly all my rest breaks. Specifically, Defendant expected me to make several
23 stops and stock up products at these stops each day. Because of the nature of my work (*i.e.*, driving and
24 stocking up products), I had no reasonable opportunities to take any rest breaks. This difficulty with
25 taking rest breaks was made worse by the number of stops I was expected to make coupled with the
26 volume of products that had to be moved and stocked. Despite almost never receiving rest breaks,
27 Defendant failed to pay me premium wages for these violations.

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1 13. Like rest breaks, Defendant's improper, uniform policies and practices also prevented
2 me from taking proper meal breaks. That is, Defendant expecting me to make multiple stops and stock
3 up on products meant I had little to no reasonable opportunities to take my meal breaks. As a result, it
4 was often the case I was forced to eat while driving to the next stop, which equated to working through
5 all my meal breaks. This meant Defendant's emphasis on meeting deadlines and being prompt came at
6 the expense of taking meal breaks. In addition, even though I regularly worked shifts exceeding ten
7 (10) hours in length, Defendant did not permit me to take second meal breaks. Finally, despite these
8 violations, Defendant never paid me premium wages for noncompliant meal breaks.

9 14. Further, Defendant failed to reimburse me for incurring business-related expenses. For
10 example, to effectively perform my duties, I was required to purchase steel-toed boots. Yet, Defendant
11 never reimbursed me for this business expense despite it being mandatory. Next, Defendant expected
12 me to use my personal cell phone every day to communicate with dispatch whenever I was making my
13 stops. Despite this, Defendant failed to reimburse me for this personal cell phone usage.

14 15. Finally, when I separated from Defendant, I was not paid all the wages I was owed,
15 including meal and rest break premiums. More importantly and by extension, Defendant has yet to pay
16 me all the wages I am owed.

17 16. I believe my interests are aligned with the interests of the Class, and I do not have any
18 conflicts of interests. Therefore, I believe I am an adequate class representative for this lawsuit.

19 17. I believe I have done everything my attorneys have asked of me, and I have tried to
20 represent the Class Members to the best of my abilities. I also understand as part of the Settlement
21 Agreement, I had to provide a general release of all my known and unknown claims against Defendant
22 that other Class Members were not required to provide. Moreover, I understand initiating a lawsuit
23 against Defendant exposed me to the risk of having a judgment entered against me for attorneys' fees
24 and costs. As a result, I have exchanged my personal gain for the benefit of the Class Members.

25 18. I am not related to anyone associated with Justice Law Corporation or Jackson Law,
26 APC, have not entered any undisclosed agreements, and have not been promised or received any
27 undisclosed compensation.

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19. Finally, I understand the \$10,000 Enhancement Award I am seeking for my work and efforts in obtaining the benefits afforded, undertaking the risk of paying litigation costs if this matter had not been resolved, and my general release of claims, is not guaranteed in the amount sought and is subject to Court approval.

I declare under penalty of perjury under the laws of California the foregoing is true and correct to the best of my personal knowledge.

Executed on 09/27/2022, in Adelanto, California.

Ernesto Rivera

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