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

DANIEL LUPERCIO, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

WESTERN CNC, INC., a California corporation,
and DOES 1 through 10, inclusive,

Defendants.

Case No. 37-2021-00010314-CU-OE-CTL

CLASS ACTION

[Assigned to: Hon. Loren G. Freestone, Dept.
C-64]

**DECLARATION OF DANIEL
LUPERCIO IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Final Approval of
Class Action Settlement, Memorandum of
Points and Authorities; Declaration of Justin
Marquez; Declaration of Nick Castro;
[Proposed] Order and Judgment Granting
Plaintiff's Motion for Final Approval of Class
Action Settlement]

FINAL APPROVAL HEARING

Date: January 26, 2024

Time: 10:30 a.m.

Dept: C-64

DECLARATION OF DANIEL LUPERCIO

I, Daniel Lupercio, declare as follows:

1. I am an adult resident of the State of California, and, if called as a witness in this action, I would testify truthfully to the matters described in this declaration. All of the matters described in this declaration are within my personal knowledge.

2. I make this declaration entirely of my own free will and choice. I have not been promised any benefit for doing so, and I have not been pressured into giving this declaration. Before signing this declaration, I was given the opportunity to review it, make changes, and verify the accuracy of its contents.

3. I am the named Plaintiff in this action and submit this declaration in support of Plaintiff's Motion for Final Approval of Class Action Settlement. Because I believe I have provided invaluable assistance during the course of this case, I am hopeful that the Court will approve my request of a \$15,000 service payment for my role as the Class Representative.

4. I am a former employee of Defendant Western CNC, Inc. ("Western CNC"). I worked at Western CNC from approximately December 2019 to January 2021 as an hourly-paid, non-exempt employee. Throughout the entirety of my employment, I was subject to Western CNC's policies and practices that have been alleged as unlawful in the Class Action Complaint ("Complaint") and Private Attorneys General Action ("PAGA") Notice sent to Western CNC and the Labor & Workforce Development Agency ("LWDA").

5. I have actively participated in the litigation of this action. Prior to the commencing of this case, I provided Wilshire Law Firm and my attorneys a detailed account of the facts related to my employment with Western CNC, including experience working for Western CNC and my experience with working during meal and rest periods while "off-the-clock." I also provided my counsel with documentation in the form of wage statements and other employment documents related to my time with Western CNC. These documents, along with the anecdotes I shared regarding my employment, assisted my attorneys in understanding the policies and practices at Western CNC.

1 6. I filed this lawsuit in because I was concerned that I was not paid properly for all
2 the hours that I worked, and I was not provided all of my meal and rest breaks. While working at
3 Western CNC, my coworkers and I were asked to work long hours because of the amount of work,
4 sometimes without taking meal and rest breaks. I also observed my co-workers working long hours
5 without taking breaks.

6 7. My attorneys explained to me the risks and benefits of bringing forward a class
7 action matter. I understood the risks, both professionally and financially, associated with pursuing
8 a class action case and acting as the Class Representative. I further understood that pursuing the
9 case as a class action, rather than individually, meant that it would take substantially longer as a
10 result of the multi-step approval process as mandated by the California Courts. Although I was
11 made aware that there was a possibility that I could receive nothing at the end, I believed that it
12 was important to ensure that Western CNC followed the law with regard to all of its hourly-paid,
13 non-exempt employees. I also understood that it was my responsibility to act in the best interests
14 of the Class and not just myself. In that respect, I understood my duties and responsibilities to the
15 proposed Class and carried out and will continue to carry out those duties as necessary.

16 8. I have invested a lot of personal time and energy while this lawsuit has been
17 pending. I made it a priority to be actively involved because I wanted to do everything I can to
18 assist my attorneys in prosecuting this case. I regularly communicated with my attorneys to discuss
19 updates on the case and to provide my attorneys with information. I also met with my attorneys
20 in-person to discuss my case.

21 9. I worked with my attorneys to respond to written discovery that Western CNC
22 wanted me to answer.

23 10. I took a full-day deposition in Vista, California where I answered questions under
24 oath from Western CNC's lawyer. I also prepared in advance of that deposition with my attorneys.

25 11. I made myself available during the mediation for this case and I kept in regular
26 contact with my attorneys before and after the mediation to ensure that any questions the attorneys
27 had could be answered.

1 12. I also reviewed pleadings filed in this case with my attorneys, including the
2 settlement-related documents.

3 13. I believe the settlement is a good settlement and I would recommend that the Court
4 approve it because I believe that this settlement is fair, adequate, and reasonable. I am glad that I
5 had the opportunity to represent the class in this lawsuit and that I was able to recover money
6 through a settlement for the class. I have also observed my attorneys' work throughout this case,
7 and I believe they have been thorough, diligent, prompt, courteous, and professional.

8 14. **I estimate that I have spent at least 75 hours on this case**, including searching
9 for and collecting documents related to my employment, speaking with my attorneys and their staff
10 throughout the litigation, assisting my attorneys respond to discovery that Western CNC sent to
11 us, preparing and appearing for a full-day deposition, helping my attorneys prepare for mediation,
12 discussing the particulars and reasonableness of the settlement, and reviewing/signing documents
13 related to the settlement.

14 15. I did not make the decision to file a class action lightly. I was concerned by the
15 attention a publicly filed lawsuit, and especially a class action, would attract. My name would be
16 associated with a lawsuit that I filed against my former employer. I was aware that it is possible to
17 perform background checks of publicly filed documents on the Internet, and I am mindful that
18 employers might find out that I sued a former employer, and this could hurt my employability.

19 16. I respectfully request that the Court award me a \$15,000 service payment. I am
20 receiving no additional compensation other than the compensation provided for in the settlement.
21 Based on my involvement in this case and the benefits provided to my former co-workers, I can
22 say I helped stand up for the other workers who may have been too afraid to say anything to
23 management because they did not want to risk losing their jobs or risk the stigma of suing an
24 employer. I was not afraid to take that risk because I strongly care about helping out my current
25 and former co-workers.

26 17. I also submit a handwritten letter in support of my requested service payment and
27 my hope that employees at other companies also find the courage to pursue labor claims against
28 their employers when they have been wronged. My handwritten letter is attached as **Exhibit A**.

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

3 Executed on January 3, 2024 at Vista, California.

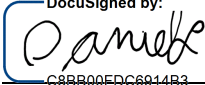
4 DocuSigned by:
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6 Daniel Lupercio
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Exhibit A

FIRST & For most

I would like to thank my legal Team.

When I made that first phone call to them I didn't know what to expect. I was at a loss with most of this but they told me to just be as truth full as possible. so when we had the deposition that is exactly what I did. I was committed to go through with this not only for me but also for Everyone who had been done wrong by western cnc. I did the best of my ability to take the time and effort for the truth to come out. I took time off work to be present when I was asked to. I feel that anyone in the past or future should understand what Labor LAWS your intitled to. Justice should be served in this case not only for me but Everyone involved. Even though I was the face of this situation I would want anybody in my position to do the right thing & seek out that help & put in that effort for the truth. With all this being said I leave this note & thank Everyone who helped & for the effort I gave so that anyone who's EVER in my spot finds comfort through our legal system & puts there trust in them.

By Daniel Lupericio & may God Bless anyone & Everyone who helped me.

Lupercio v. Western CNC, Inc., et al.
37-2021-00010314-CU-OE-CTL

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

On **January 3, 2024**, I served the foregoing **DECLARATION OF DANIEL LUPERCIO IN SUPPORT OF PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Attorneys for Defendant
Western CNC, Inc.

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on **January 3, 2024**, at Los Angeles, California.

Min Jee Kim
Type or Print Name

Signature