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Attorneys for Plaintiff KEVIN MURPHY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KEVIN MURPHY, individually and
on behalf of all other Aggrieved
Employees,

Plaintiff,

vs.

FUSION LEARNING, INC., a
Delaware Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 2:21-cv-06732-JAK-AS
Related Case No.: 2:22-cv-04497-JAK-AS

**DECLARATION OF PLAINTIFF
KEVIN MURPHY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: December 11, 2023
Time: 8:30 a.m.
Place: First Street Courthouse,
350 W. First Street
Courtroom 10B
Los Angeles, CA 90012

Complaint Filed: July 8, 2021
Trial Date: None Set
District Judge: Hon. John A. Kronstadt
Magistrate Judge: Hon. Alka Sagar

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I, Kevin Murphy, do hereby declare as follows:

1. I am an individual over the age of 18 and am the named Plaintiff in this matter. I have personal knowledge of the facts stated in this declaration and if called as a witness I would testify truthfully to the matters stated herein.

2. I worked for Fusion Learning, Inc. ("Fusion") from approximately December of 2019 through March of 2021 as a teacher. I worked on campus at the Fusion Pasadena location from December of 2019, through March, 2020 when I began to work remotely after the Covid-19 pandemic stay at home orders were issued. I continued to work remotely through the end of my employment in March of 2021. While working for Fusion, I regularly worked about 8 hours per day between 9:30 a.m. and 5:30 p.m. but was not properly compensated for my time due to Fusion's policy of only providing its employees one hour of pay for the classes they were scheduled to teach, as opposed to just having myself and other putative class members confirm whether a class took place.

3. While working at Fusion during the time period covered in this lawsuit, I often did not get my lunch until after I had worked more than five hours. I did not always receive a full 30-minutes for lunch or uninterrupted rest breaks when I worked for Fusion. I was also not permitted to leave the classroom during my rest breaks.

4. As the lead Plaintiff in the related PAGA and Class Action lawsuits, my decision to bring the case was not taken lightly as I understood that I assumed considerable potential reputational and financial risk in bringing the lawsuits. At the time of filing this lawsuit, I understood that this lawsuit could benefit Fusion employees by facilitating the recovery of their unpaid premiums for meal and rest period violations, in addition to associated penalties. I was also aware that there was a risk that I could be liable for Fusions' costs and possibly attorneys' fees if I lost the case. I accepted this risk because I wanted Fusion to compensate its employees as required by law. Having worked for Fusion for over a year, it was my impression that other employees (especially current employees) would not want to risk retaliation by filing a lawsuit. However, even

1 though I understood that filing a lawsuit is a public record, I accepted that risk for the
2 benefit of the other employees of Fusion.

3 5. I have been actively involved in this case since its inception. Among other
4 things, I attended a full day mandatory settlement conference on March 22, 2023.
5 Additionally, I gathered and reviewed documents and records for use in the lawsuit, and
6 discussed Fusion' meal and rest period policies and practices with my attorneys. I also
7 assisted my attorneys in identifying other potential witnesses and class members. I have
8 met with my attorneys on numerous occasions, to discuss the lawsuit, review documents
9 and discovery, and discuss strategy. I also spent a significant amount of time discussing
10 the facts of the case and reviewing documents produced by Fusion in preparation of two
11 full-day mediation sessions in addition to the settlement conference. I would estimate
12 that I have spent more than 40 hours on these activities in order to move the case forward.

13 6. The terms of the proposed settlement have been explained to me, and I
14 believe that the settlement is fair for all members of the Settlement Class in light of the
15 risks of further litigation.

16 7. I understand that my attorneys will request that the Court award me an
17 incentive award in the amount of \$10,000.00 for my service and efforts on behalf of the
18 proposed Settlement Class. My support for the proposed settlement is not contingent on
19 me receiving this amount. Through this proposed settlement, I am also agreeing to a
20 general release which does not apply to the other class members.

21 8. I am not related to anyone associated with the Haig B. Kazandjian Lawyers,
22 APC or at Haines Law Group, APC. I have not entered into any undisclosed agreements
23 nor have I received any undisclosed compensation in this case. The only compensation
24 I will receive is whatever amount the Court awards as an enhancement payment, as well
25 as my share of the settlement fund as a class member. Taking into consideration the time
26 that I have dedicated to this case, and the risk that I have taken, (because of the possibility
27 that my current employer, and future employers, might discover that I have served as the
28 lead plaintiff in this case and retaliate against me), I believe that this amount sought as
an incentive award is reasonable.

9. I understand that Haig B Kazandjian Lawyers APC and Haines Law Group, APC will share the attorney fees in this action. I agreed to this in writing. I understand that the amount of attorney's fees will not increase as a result of this fee sharing.

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

Executed at Pasadena, California on November 6th, 2023.

Kevin L. Murphy

KEVIN MURPHY