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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

JORGE LUIS DIAZ BERNAL, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

GACHINA LANDSCAPE MANAGEMENT,
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CGC-21-591923

[Hon. Andrew Y.S. Cheng]

CLASS ACTION

**DECLARATION OF PLAINTIFF IN
SUPPORT OF MOTIONS FOR APPROVAL
OF CLASS ACTION AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: September 11, 2024

Time: 9:30 a.m.

Courtroom: Dept. 613

Judge: Hon. Andrew Y.S. Cheng

Action Filed: June 1, 2021

Trial Date: Not Set

1. I am a named Plaintiff in this case. I am a former employee of the named defendant, GACHINA LANDSCAPE MANAGEMENT, INC. (“Defendant” or “Gachina”). As such, I have personal knowledge of, or am informed and believe, the following facts herein stated. If called as a witness. I could and would testify competently to the following:

2. I worked for Defendant during the Settlement Class in the County of San Mateo, State of California, from approximately January 2020 to May 2021. I held a job position that is at issue in this case and included within the class, specifically, the position of assistant and laborer.

3. My job duties included the following: cut grass, use leaf blower, weed plants, water plants, plant trimming, and general plant maintenance.

4. My first rest break was sometimes combined with my lunch break. The combined break did not always start before the end of the fifth hour of work. In cold months we did not always receive a second rest break. At times I had to use my cell phone to send pictures of completed work to my supervisor. My final paycheck was several days late.

5. This lawsuit is not an individual lawsuit. It is a proposed class action. I understand that, if approved as a class representative in this matter, I have an obligation to do my best to look out for the interests of other class members, the current and former employees of Gachina who I am seeking to represent. I understand that my obligations to the class exist even when the class is certified solely as part of a class action settlement. It is my understanding that, as one part of this duty to the class, I cannot agree to a settlement to benefit myself to the exclusion of the rest of the class members. I have never asked my attorneys to simply settle this matter at any cost. Rather, I have asked them to obtain the best settlement they could within reason, and I believe that they have attempted to do so.

6. This case was filed about 2.5 years ago. I have never asked to be relieved from my role as a proposed class representative. To the contrary, I have made myself available whenever my attorneys wanted to discuss aspects of my employment at Gachina and I remain committed to seeing this matter through to the end.

7. I have conferred with my attorneys about the settlement proposed in this case. I am not an accountant, but I understand the factors and risks that need to be considered when evaluating a settlement.

8. Summing it all up in the simplest terms, I am asking to be stand-in for other employees of Gachina. Because of that, I cannot quit on the Class, and I cannot put myself and my interests before the Class. I accept these duties and request that I be approved as the class representative for purposes of this amended Settlement.

COMMUNITY OF INTEREST: TYPICALITY AND ADEQUACY

9. I was an hourly non-exempt employee of Defendants and was subject to the same pay structure and rules as all the other hourly non-exempt employees of Defendants.

10. I am not aware of anything special about me that would raise unique defenses to my claims, as opposed to the claims of the class. I am also not suing for anything unique to me. Rather, my claims are based upon the same facts that relate to the rest of the Class.

11. I do not believe that I have any conflicts with Class Members included in this proposed Settlement. I do not have any intention to take any action that would place me in a position that is hostile to other Class Members.

SERVICE AS A CLASS REPRESENTATIVE

12. I believe that were it not for my stepping forward and taking on the duties of protecting the interests of other Defendant employees, it is likely that the interests of the class would neither have been prosecuted, nor benefited. To my knowledge, other than the litigation encompassed by this proposed Settlement, there is no other litigation, on a class or individual basis, concerning the claims in this lawsuit. Nor has Defendant pointed to any.

1 13. I have assumed some long-lasting risk in prosecuting this case. Because it is so easy to
2 search for information online these days, I will face an increased risk that future employers will
3 discover information about this lawsuit online and have a negative reaction to learning that I sued an
4 employer. This may make it harder for me to obtain future employment or change jobs for a better
5 opportunity.

6 14. I have devoted a substantial amount of my time, both before this lawsuit was filed and
7 also during its litigation to ensure a fair result for the employee class. This involved ongoing
8 communications and participation with my counsel during the course of this case.

9 15. My participation began with bringing certain issues that are involved in this matter to
10 my counsel's attention, and explaining the factual background that was used to prosecute the claims in
11 this case.

12 16. For example, I reviewed documents which I already had, I provided relevant documents
13 to my counsel, and I explained those documents and related facts to my counsel to assist them in their
14 review. I also assisted in identifying potential witnesses, including other employees, who might
15 likewise have been of assistance.

16 17. My efforts continued after suit was filed. For example, I continued to identify
17 employees and other witnesses to counsel, along with other information as to how they could be of
18 potential use in this matter. I also discussed strategy with my counsel.

19 18. I made sure to be available to my lawyers during the days of mediation to answer any
20 questions about my experiences.

21 19. After the mediation, a long-form settlement agreement was negotiated, and I reviewed it
22 with my attorneys as well as I was able to ensure that its terms are likewise fair and adequate.

23 20. In sum, I believe I have provided well over 30 hours of my time during the course of
24 this litigation to ensure a good outcome for the best interests of the class.

25 21. I do not believe that I have any conflicts with Class Members included in this proposed
26 Settlement.

27 22. I have no relationship with the proposed Settlement Administrator, Phoenix Settlement
28 Administrators.

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

3 Executed on 1/29/2024, at East Palo Alto, California.

DocuSigned by:
J. L. Diaz Bernal
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JORGE LUIS DIAZ BERNAL, "Declarant"

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **DECLARATION OF PLAINTIFF IN SUPPORT OF MOTIONS FOR APPROVAL OF CLASS ACTION AND REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Rona P. Layton (SBN 121238)
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LAYTON LAW FIRM
111 North Market Street, #300
San Jose, CA 95113
Telephone: (408) 892-9870
Facsimile: (408) 332-5857

Counsel for Defendant

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

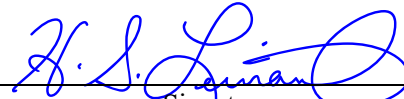
☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this **August 8, 2024** at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature