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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MAHO LAZO, individually, and on behalf of all
others similarly situated,

Plaintiff,

v.

PROTERRA OPERATING COMPANY, INC., a
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21STCV30663

Assigned for All Purposes to:
Honorable Yvette M. Palazuelos
Department 9

CLASS ACTION

DECLARATION OF JOAN GRAFF

Hearing Date: October 5, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department 9

Complaint Filed: August 19, 2021
FAC Filed: March 22, 2023
Trial Date: None Set

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DECLARATION OF JOAN GRAFF

I, **Joan Graff**, declare as follows:

1. The facts set forth in this declaration are true and correct and are known to me personally except those matters stated on information and belief. If called as a witness, I could and would testify competently thereto under oath.
2. I am an attorney licensed to practice before the courts of the State of California.
3. Since 1981, I have served as President of Legal Aid at Work (“LAAW”), formerly known as the Legal Aid Society-Employment Law Center.
4. LAAW was founded in 1916 as the Legal Aid Society of San Francisco and is a nonprofit organization providing civil legal services to the *indigent* consistent with California Code of Civil Procedure 384. For over 100 years, LAAW has provided continuous service with the aim of offering free and high-quality legal assistance to those who are unable to afford legal representation. For more than five decades, LAAW has primarily devoted its resources to protecting the workplace rights of California’s low-wage workers. LAAW’s nonprofit status and work providing services to the indigent make it an appropriate designee of *cy pres* funds. LAAW is a CCP § 384 organization as described more specifically below.
5. As a nonprofit organization, LAAW funds its programs and projects from a diverse base of support: (a) donations from individuals, law firms, and businesses; (b) foundation and government grants; (c) allocations of monies from the Legal Services Trust Fund; and (d) *cy pres* distributions.
6. LAAW addresses the full range of employment issues that low-wage workers confront through the following seven programs: (a) Community Legal Services; (b) Disability Rights; (c) Gender and LGBT Equity; (d) National Origin and Immigrants’ Rights; (e) Racial Economic Equity; (f) Wage Protection; and (g) Work and Family.

- 1 7. The core of LAAW's work is providing free legal services to low-wage workers with
2 employment law claims. It litigates cases that address an array of issues important to low-
3 wage workers, including (a) violations of wage-and-hour laws; (b) workplace retaliation;
4 (c) discrimination on account of race, national origin, disability, sex, gender identity,
5 sexual orientation, immigration status and language proficiency; (d) harassment; and (e)
6 failure to comply with equal pay laws and family medical leave laws. Whether in state or
7 federal court, at the trial level or on appeal, nearly all of LAAW's cases impact the law
8 and industry practices, raise community awareness, and change the course the clients'
9 lives.
- 10 8. Since 1970, LAAW has defined its mission and devoted its practice to representing low-
11 wage workers in enforcing the full range of their employment rights. I am informed and
12 believe that LAAW is one of very few legal services nonprofits in the country that has this
13 singular purpose.
- 14 9. With 22 attorneys, LAAW provides services to low-wage workers statewide and, in select
15 instances, nationwide. LAAW's clients work in sectors in which low-wage work
16 predominates, including caregiving, construction, hospitality, landscaping, retail, and
17 transportation, as well as domestic, food, and janitorial services. Many of LAAW's clients
18 are immigrants, and a significant number of them are monolingual Spanish, Mandarin, or
19 Cantonese speakers or have limited English proficiency.
- 20 10. A sampling of wage-and-hour cases LAAW has litigated include the following actions:
- 21 a. An action on behalf of a group of roughly 370 campaign workers who were
22 misclassified as independent contractors by a campaign operator working on the
23 2019 campaign sponsored by Juul Labs, Inc. to allow for the sale of vaping
24 products in San Francisco. After defeating a motion to compel arbitration and a
25 motion to dismiss the claims against Juul Labs, Inc., Legal Aid at Work, with its
26 co-counsel Leonard Carder, secured a settlement of \$1.75 million by Juul and the
27 other defendants that was approved by the Northern District of California.
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1 b. An action on behalf of a group of 23 Filipino workers who were subjected to forced
2 labor in 2012 while working at a hospitality complex in rural Oklahoma. These
3 workers were brought to the United States on H2B visas, and incurred significant
4 debt as part of the visa process. Before coming to the United States, the workers
5 were promised free housing, free meals, reimbursement of visa costs, and a fixed
6 wage. Once they arrived in Oklahoma, they were paid extremely low wages below
7 the amount promised, and were not provided housing, food or other benefits
8 promised by the contract. In 2021, Legal Aid at Work won a motion for class
9 certification, allowing for this case to proceed on a class-wide basis. In 2022, Legal
10 Aid at Work won a motion for sanctions related to Defendants' failure to produce
11 complete discovery in the matter.

12 c. An action on behalf of roughly 350 kitchen workers at the Burma Superstar, Burma
13 Love, and B star restaurants in San Francisco, Oakland and Alameda. The workers
14 alleged that the chain failed to pay minimum and overtime wages, split shift
15 premiums, and sick leave, did not provide adequate meal and rest breaks, and
16 unlawfully retaliated against employees. In 2020, the class settled the claims for
17 \$1.3 million.

18 11. In addition to litigating cases, LAAW represents clients in administrative proceedings
19 before state agencies including the California Labor Commissioner ("Labor
20 Commissioner") and the California Unemployment Insurance Appeals Board
21 ("CUIAB").

22 12. LAAW has represented clients in wage-and-hour and anti-retaliation enforcement
23 proceedings, including:

24 a. Three Latino construction workers who were denied any overtime pay, despite
25 working at least 52 hours most weeks for several years on major building projects
26 in San Francisco. After the workers were laid off at the start of the pandemic,
27 LAAW helped them bring claims to recover their wages. LAAW secured a
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1 settlement of approximately \$51,500 for these clients, recovering all of their
2 overtime wages and the vast majority of penalties owed.

3 b. A Latino day laborer in Sonoma County who was owed several weeks of wages.
4 When he asked his employer to pay him what was owed, the employer threatened
5 to call Immigration and Customs Enforcement. We helped this worker to file a
6 wage claim, a bond claim, and a retaliation claim. In response to our efforts to
7 help this worker enforce his rights, the employer made death threats against our
8 client. We amended our retaliation claim to include these threats, and won a
9 judgment of approximately \$90,000. We recovered this judgment in full through
10 a lien that the Labor Commissioner's office placed on the employer's property,
11 less than a year after the threats were made.

12 c. Three Latina women who worked for a housecleaning company and were paid a
13 fixed daily salary amount that did not compensate them for the considerable
14 overtime hours they had to work to clean all the houses that the employer
15 scheduled them to clean. The workers also had to work non-stop, without breaks,
16 and their only opportunity to eat during the workday was while driving between
17 assigned houses. LAAW represented the workers at a California Labor
18 Commissioner settlement conference and secured a settlement of \$25,000 for the
19 three workers.

20 d. A Chinese-American worker who worked for several years as an on-site property
21 manager in a residential apartment building in San Francisco, and was paid an
22 extremely low monthly salary, far below the minimum wage. He also was not paid
23 at all for six months of work. After a dispute with his employer, the client was
24 fired and at the same time forced to move out of his home; when he was not able
25 to move immediately, the building owners filed a lawsuit against him for trespass
26 and damages. LAAW helped the worker file a claim for unpaid wages with the
27 California Labor Commissioner, and represented the worker throughout the Labor
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Commissioner process. LAAW also took the lead in coordinating with outside attorneys representing the worker and his family in the housing lawsuit, and in a complex negotiation with multiple employer entities. We were able to secure a settlement in which our client received \$25,000 and the dismissal of the lawsuit against him.

- e. Approximately 25 employees of a Burger King franchise in San Francisco who reported a wide array of systemic legal violations—including failure to pay for all hours worked, overtime, meal, and rest violations—to both the California Labor Commissioner’s Bureau of Field Enforcement and the City of San Francisco's Office of Labor Standards Enforcement. LAAW has represented workers in interviews with state and local investigators, and provided legal support to Trabajadores Unidos Workers United, a worker center that has organized workers and developed a coordinated, worker-led campaign around the case. The dual government investigations have so far resulted in both a citation and subsequent settlement with the City of San Francisco for over \$800,000, covering unpaid health care expenditures for 235 employees; and the state's \$2.2 million citation against the Burger King franchise, which includes unpaid wages and related penalties for 230 employees. In 2022, the citation was upheld on appeal before the Labor Commissioner’s office.

13. LAAW Wage Rights Clinics helped low-wage workers assess their claims for unpaid wages, calculate the amount of unpaid wages, and prepare the forms necessary to initiate wage claims before the Labor Commissioner. From 2018 through 2022, the Clinic assisted over 390 clients, including many immigrants with limited English proficiency.

14. The Wage Protection Program also represents clients at conferences and hearings before the Labor Commissioner. From 2018 through 2022, the Wage Protection Program represented 136 workers before the Labor Commissioner’s Wage Adjudication Unit,

securing \$1,007,045.17 in settlements and \$1,383,414.95 in Labor Commissioner awards for wages owed, penalties, and other available relief.

15. Additionally, LAAW's Community Legal Services Program provides advice and counseling to low-wage workers on the full range of employment law issues they face through fourteen statewide Workers' Rights Clinic locations: Antioch, Berkeley, East Palo Alto, Fresno, Los Angeles, Merced, Ontario, Sacramento, San Bernardino, San Diego, San Francisco, Santa Ana, Visalia, and Watsonville. The Community Legal Services Program volunteers also respond to calls on the Clinic's toll-free hotline that makes LAAW's services accessible to low-wage workers in more remote areas that are beyond the reach of Clinic sites.

16. During the academic year, LAAW also holds a biweekly Workers' Rights Disability Law Clinic at the Ed Roberts Campus located in Berkeley, California. The clinic provides free legal counseling, advice, referrals, and limited representation to low-income workers and job-seekers with disabilities.

17. From 2018 through 2022, LAAW's clinics and helplines assisted approximately 13,399 low-wage workers from all 52 counties throughout California.

18. LAAW also represents workers with unemployment insurance claims at the California Unemployment Insurance Appeals Board. From 2018 through 2022, LAAW represented 73 clients in administrative appeals from denials of unemployment benefits with a 93% success rate in overturning denials and securing benefits or reversing overpayments.

19. LAAW is committed to serving those whose primary language is not English. LAAW employs multiple bilingual attorneys and other staff who are fluent in English and Spanish, and a language coordinator who is fluent in Mandarin and Cantonese. The language coordinator also ensures that interpreters are available when LAAW lacks in-house language capacity. LAAW also publishes translated versions of its fact sheets and other legal information on its website in Spanish and Chinese. These tools enhance the reach of LAAW to workers around the state.

1 20. As part of LAAW’s statewide activities, its staff engages in extensive outreach, education,
2 and training initiatives to inform low-wage workers and their communities, grassroots
3 advocates, and nonprofits organizations—legal and non-legal—about workplace rights.

4 In particular, LAAW:

5 a. Writes a regular employment rights column in the weekly
6 Northern and Southern California editions of *Sing Tao*, a Chinese newspaper with
7 wide circulation in the community;

8 b. Conducts trainings for domestic violence survivors and service
9 providers about employment law protections available to survivors;

10 c. Provides periodic trainings at the University of California, San
11 Francisco Medical Center for cancer patients and their caregivers; and

12 d. Provides trainings in collaboration with Swords to Plowshares
13 focused on women veterans and employment.

14 21. To extend its expertise beyond its doors, LAAW composes and distributes a wide range
15 of self-help and informational materials. These include: 90 topic-specific “Your Legal
16 Rights” fact sheets which are drafted in plain language and nearly all are translated into
17 Chinese and Spanish for use by workers and advocates; the Employment Law Manual, a
18 complete compendium of California employment laws used as a basic resource and
19 reference tool by students, attorneys and nonprofit organizations around the state; and a
20 website providing workplace know-your-rights information.

21 22. LAAW also offers its expertise to other nonprofit organizations—legal and non-legal. For
22 example, as part of the Coalition of Low-Wage and Immigrant Worker Advocates, LAAW
23 participates in an annual conference, monthly conference calls, and regular meetings with
24 administrative agencies such as the Labor Commissioner and the CUIAB. In addition,
25 LAAW is a leading member of the statewide Work and Family Coalition, a member of
26 the nationwide Freedom Network, the largest coalition working to ensure that trafficked
27 persons have access to justice, safety, and the San Francisco’s Mayor’s Anti-Human
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1 Trafficking Taskforce. Finally, LAAW works closely with the Inland Empire Fair
2 Chance Coalition- providing its members with advice on several Fair Chance cases filed
3 at the California Department of Fair Employment and Housing and hosting several
4 trainings with the Coalition.

5 23. Actively participating as *amicus curiae* is an integral part of LAAW's statewide efforts to
6 protect the rights of low-wage workers and advance their interests in key appellate court
7 cases. These cases include *Kirola v. City and County of San Francisco* (Case No. 14-
8 17521); *Turman v. Koji's Japan Inc.* (Case No. G051871); *Sonic-Calabasas v. Moreno*
9 (Case No. S174475) (*Sonic II*); *Harris v. City of Santa Monica* (Case No. S181004);
10 *Dedinas v. Superior Court, County of Los Angeles* (Case No. S182827); *Paratransit, Inc.,*
11 *v. Medeiros* (Case No. 204221); *Wills v. Superior Court, County of Orange* (Case No.
12 G043054); *Law School Admissions Council v. State of California* (Case No. C073187);
13 *Oman, et al. v. Delta Air Lines, Inc.*, Case No. S248726 (Cal. Supreme Court, February
14 2019); *Skidgel v. California Unemployment Insurance Appeals Board*, Case No. S250149
15 (Cal. Supreme Court, April 2019); and *Naranjo v. Spectrum Security Services*, Case No.
16 S258966 (Cal. Supreme Court, March 2022).

17 24. The breadth of LAAW's work throughout California is enhanced immeasurably by *cy*
18 *pres* awards. They have assumed an increasingly important place among its revenue
19 sources. Consistent with the claims of employment class actions these funds are used to
20 protect the workplace rights of low-wage workers by helping LAAW to maintain
21 programs and undertake initiatives in response to urgent community needs. *Cy pres*
22 awards have also enabled us to serve the community of low-wage workers in many
23 specific ways, including: (a) a training video for student volunteers on how to conduct a
24 client interview in the Workers' Rights Clinic; (b) translation of dozens of fact sheets into
25 Chinese and Spanish; and (c) the design and implementation of an online registration
26 system for the more than 100 attorney volunteers who participate annually as supervisors
27 with the Workers' Rights Clinic sites statewide.

1 25. If awarded *cy pres* monies in this case the funds will be used to advance the underlying
2 purpose of the plaintiffs and class members by using the tools and strategies set forth in
3 this declaration to protect, enforce and strengthen the rights of workers to be paid the
4 monies they rightfully earn.

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6 I declare under penalty of perjury pursuant to the laws of the State of California that the
7 foregoing is true and correct. Executed on this 21st day of April, 2023 at San Francisco,
8 California.

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12 Joan Graff

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