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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ANTHONY GUTIERREZ, on behalf of the State)
of California, as a private attorney general,

Plaintiff,

vs.

OPTIONS FOR YOUTH-VICTOR VALLEY,
INC., a California Corporation; OPTIONS FOR
YOUTH-BURBANK, INC., a California
Corporation; OPTIONS FOR YOUTH-
UPLAND, INC., a California Corporation;
OPTIONS FOR YOUTH-ACTON, INC., a
California Corporation; OPTIONS FOR
YOUTH-CALIFORNIA, INC., a California
Corporation; OPTIONS FOR YOUTH-
DUARTE, INC., a California Corporation;
OPTIONS FOR YOUTH-SAN BERNARDINO,
INC., a California Corporation; OPTIONS FOR
YOUTH-SAN GABRIEL, INC., a California
Corporation; OPTIONS FOR YOUTH-SAN
JUAN, INC., a California Corporation; and
DOES 1 through 50, Inclusive

Defendants.

Case No. CIVSB2132685

**DECLARATION OF ANTHONY
GUTIERREZ IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: January 18, 2024

Hearing Time: 8:30 a.m.

Judge: Hon. Jessica Morgan
Dept.: S-26

Action Filed: November 24, 2021

Trial Date: None Set

1 I, Anthony Gutierrez, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Preliminary
4 Approval of Class Settlement and in support of my application for a Class Representative
5 Service and General Release Payment (“Class Representative Service Payment”).
6

7 2. I have personal knowledge of all the facts stated herein. I could and would competently
8 testify under oath to these facts in court if requested to do so.

9 3. I worked in California as a Safety Coordinator for the Defendants (hereinafter referred to
10 as the “company” or “Options for Youth”) from June of 2020 to June of 2021. I was classified by
11 Options for Youth as a non-exempt employee during that time period.
12

13 4. I retained my attorneys who are experienced in both class action and PAGA
14 representative action litigation and claims against employers for violations of the California
15 Labor Code. I have no personal relationship or family ties to my attorneys or any officer of the
16 Court. I am not aware of having any actual or potential conflicts of interest with another class
17 member in this case nor am I aware of having any actual or potential conflicts of interest with
18 ILYM Group, Inc., the settlement administrator. I am not aware of any other pending matter or
19 action asserting claims that will be extinguished or adversely affected by this settlement.
20

21 5. I decided to pursue this class action lawsuit and be a plaintiff/class representative
22 because I felt that my legal rights as an employee and others like me were violated. For example,
23 I was not paid for the all hours I worked in that I was required to work off the clock, especially
24 during the pandemic, as many of my co-workers began to work from home, thereby forcing me
25 to fulfill many additional roles for the company. I also sacrificed many meal breaks in the
26 process in an effort to pick up the slack for the company which was understaffed – and I did not
27

1 receive all the meal break penalty payments I was entitled to for these violations. Additionally,
2 after I clocked out for the day, I was required to prep for the following work day as I wasn't
3 afforded such time to do so during my incredibly tight daily schedule. Moreover, if teachers
4 worked into the evening, I did as well, working off the clock until the teachers were ready to
5 leave as I had to escort them to their respective vehicles to ensure their personal safety in a
6 dangerous neighborhood. I was not paid any wages for this time I worked off the clock. I also
7 had to use my personal cell phone for work-related purposes as I had to constantly be in contact
8 with my supervisors in addition to calling the company's other locations. I was not reimbursed
9 by the company for using my cell phone for work-related purposes.
10

11 6. I spoke to my attorneys several times and discussed how Options for Youth implemented
12 its company policies and procedures. I also assisted my attorneys in their investigation into my
13 claims by providing them documents and answering their questions. I reviewed the complaint
14 before it was filed and after it was filed I was given access to an electronic file sharing program
15 that alerted me via email when important documents were filed so that I could review them and
16 keep up with the developments in the case which I understood was one of my duties as a class
17 representative. I would also contact my attorneys from time to time if I had any questions about
18 the case.
19

20 7. Even though this action is in the process of settling, I was and remain prepared to
21 perform all the duties of a class representative. I understand that as a class representative I have
22 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
23 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
24 benefit of the class members and surrender any right to compromise the group action for an
25 individual gain.
26

8. I understood that being a plaintiff/class representative in this case meant that I was seeking damages not only for myself but also other current and/or former non-exempt employees working for Options for Youth in California. I felt that these individuals were not aware of their labor law rights and even if they were they would probably be apprehensive about speaking up or even simply because of the time, effort and risk involved in filing a class action lawsuit.

9. I understood that being a part of this lawsuit involved risks. For example, my attorneys explained to me that if the case went to trial and we lost, I could be held responsible to pay for all or part of the attorney fees and costs paid by Options for Youth to defend this lawsuit. Also, I knew there was a risk that future employers, if they ever find out about this lawsuit, could hold it against me or downgrade me as a potential hire. As the only named Plaintiff in this case it would not be difficult for a future employer to become aware that I sued a former employer for labor law violations. Ultimately I decided these risks were worth it and decided to fight for my rights and the rights of others regardless of the risks, time and effort I spent on this case.

10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also kept up to date on important developments by reviewing court filings that were made available to me electronically as I described above.

11. A mediation took place on May 8, 2023. The mediation was presided over by Hon. Carl J. West (Ret.), a former judge and well-respected and experienced mediator of wage and hour class actions. After the mediation the parties were able to reach an agreement to settle the action based on a mediator's proposal. I communicated with my attorneys regarding the terms of the settlement which was reached between the parties and understood that I was representing absent class members and therefore wanted the best possible result to be obtained

1 for the class members and I believe a very positive result was in fact achieved via settlement. I
2 reviewed and signed the Memorandum of Understanding on August 17, 2023 and when the final
3 settlement papers were ready, I closely reviewed the Settlement Agreement which I signed on
4 November 10, 2023.

5
6 12. I have been actively involved with this lawsuit performing the duties described above.
7 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
8 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
9 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
10 up until this point. I believe I have been diligent and have done what is expected of a named
11 plaintiff and a proposed class representative to date, and will continue to do so. I have and
12 always will maintain the best interest of the class members.

13
14 13. My attorneys explained to me that the settlement process involves a two-step
15 review by the Court to determine whether the settlement is fair before approving the settlement.
16 I know this process also involves notifying all class members of the settlement terms and of their
17 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
18 settlement.

19
20 14. I believe I did the right thing by filing this case on behalf of the class members who,
21 subject to court approval, are in line to receive monetary payments as a result of this case and
22 settlement. This is money they may never have ever gotten if I did not pursue this action on their
23 behalf. I feel significant personal satisfaction to know that I played a role in the class members
24 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
25 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
26 compensation for the work I performed and the risks I undertook.

15. As part of the settlement it was necessary for me to sign a general release of all claims I may have against Options for Youth. I believe the Class Representative Service Payment I have requested provides me with some compensation for this agreed release.

16. In light of all the time and effort I have spent on this case, the risk I undertook by suing a former employer, the exposure to being responsible for paying Options for Youth's costs in the event we did not win the case, the reputational risk that future employers may hold this lawsuit against me, the general release, and in light of the size of the settlement, I believe the request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

Executed on Nov 10, 2023, at Apple Valley, CA.
(city, state)


Anthony Gutierrez (Nov 10, 2023 16:33 PST)

Anthony Gutierrez