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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN BERNARDINO**

10
11 FRANCISCO GARCIA, an individual, on
behalf of himself, and on behalf of all persons
12 similarly situated,

13 Plaintiff,

14 vs.

15 SPECIALTY MINERALS INC., a
16 corporation; DOES 1 through 50, inclusive,

17 Defendants.
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Case No. **CIVSB21276950**

**DECLARATION OF FRANCISCO
GARCIA IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: June 7, 2023

Hearing Time: 10:00 a.m.

Judge: Hon. David Cohn

Dept: 26

Date Filed: September 29, 2021

Trial Date: Not set

1 I, Francisco Garcia, 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 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 for Defendant Specialty Minerals Inc. ("Specialty Minerals") in California
10 from October of 2020 to June 11, 2021. I was classified by Specialty Minerals as an hourly,
11 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, the settlement administrator. I am not aware of any other pending matter or action
19 asserting claims that will be extinguished or adversely affected by this settlement.
20

21 5. I decided to file this class action lawsuit and be a plaintiff/class representative because
22 I felt that my legal rights as an employee and others like me were violated. For example, I was
23 not paid for all the time I worked because Specialty Minerals rounded my time worked in their
24 favor so that I was underpaid each shift by a few minutes. Also, my meal and rest periods were
25 sometimes late, interrupted or missed entirely and I did not receive all the meal and rest break
26 penalty payments I should have received for these violations. Also, when I did receive meal or
27

1 rest break penalty payments, they were underpaid in that they were paid based on my base rate
2 instead of my regular rate.

3 6. This class action case was filed on September 29, 2021. Before the complaint was filed I
4 spoke to my attorneys several times and discussed how Specialty Minerals implemented its
5 company policies and procedures. I also assisted my attorneys in their investigation into my
6 claims by providing them documents and answering their questions. I reviewed the complaint
7 before it was filed and after it was filed I was given access to an electronic file sharing program
8 that alerted me via email when important documents were filed so that I could review them and
9 keep up with the developments in the case which I understood was one of my duties as a class
10 representative. I would also contact my attorneys from time to time if I had any questions about
11 the case.
12

13 7. Even though this action is in the process of settling, I was and remain prepared to
14 perform all the duties of a class representative. I understand that as a class representative I have
15 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
16 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
17 benefit of the class members and surrender any right to compromise the group action for an
18 individual gain.
19

20 8. I understood that being a plaintiff/class representative in this case meant that I
21 was seeking damages not only for myself but also other current and/or former hourly, non-
22 exempt employees working for Specialty Minerals in California. I felt that these individuals
23 were not aware of their labor law rights and even if they were they would probably be
24 apprehensive about speaking up or even simply because of the time, effort and risk involved in
25 filing a class action lawsuit.
26

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 Specialty Minerals to defend this lawsuit. Also, I knew there was a risk that future employers, if they ever found 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 September 28, 2022 with Tripper Ortman, a well-respected and experienced mediator of wage and hour class actions. The mediation was unsuccessful and did not result in a settlement. A second mediation took place on February 8, 2023 with Warren Jackson, another well-respected and experienced mediator of wage and hour class actions. Following the second all-day mediation session, the parties agreed to settle the action. 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 for the class members and I believe a very positive result was in fact achieved via settlement. I reviewed and signed the Memorandum of Understanding on February 9, 2023 and when the final settlement papers were ready, I closely reviewed the Settlement Agreement which I signed on April 15, 2023.

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

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

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

23 15. As part of the settlement it was necessary for me to sign a general release of all
24 claims I may have against Specialty Minerals. I believe the Class Representative Service
25 Payment I have requested provides me with some compensation for this agreed release.
26

27 16. I have not entered into any undisclosed agreements nor have I received any
28

1 undisclosed compensation in this case. The only compensation I will receive is whatever amount
2 the Court approves as a service award, as well as my share as a class member of the settlement
3 fund.
4

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

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

12 Executed on May 4, 2023, at Adelanto CA.
13 (city, state)

14 ~~Francisco Garcia~~
15 Francisco Garcia (May 4, 2023 12:47 PDT)
16 Francisco Garcia
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