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Joel Zelaya and Demetrio Montes

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JOEL ZELAYA, an Individual; DEMETRIO
MONTES, an Individual;

Plaintiffs,

vs.

COMMERCIAL LUMBER & PALLET CO.,
INC., a California Corporation; RAYMOND
GUTIERREZ, an Individual; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 22PSCV00340
Related Case: 22STCV03643

*Reassigned for all purposes to Hon. Stuart M.
Rice, Dept. 1*

**DECLARATION OF JOEL ZELAYA IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

DATE: August 18, 2023
TIME: 10.30 a.m.
DEPT: 1 (Spring Street)

Complaint Filed: April 6, 2022
Trial Date: *Not yet set*

DECLARATION OF JOEL ZELAYA

I, Joel Zelaya, declare and state as follows:

1. I am over eighteen years old and unless context indicates otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would testify competently to them. I am one of the named plaintiffs and proposed class representatives in the above-captioned action. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

2. I was employed at Defendant Commercial Lumber & Pallet Co. Inc. as a non-exempt hourly employee during the period of time relevant to this Action. I worked for Defendant beginning on or about May 16, 2012 until approximately December 27, 2022 as a warehouse worker, a non-exempt hourly position. As such, I was employed throughout the entirety of the settlement class period of the proposed class action settlement. I brought this action and agreed to act as a Class Representative to redress certain employment claims that my co-workers and I had against Defendant Commercial Lumber & Pallet Co. Inc. and Defendant Raymond Gutierrez (hereinafter collectively "Defendants").

3. I provided my attorneys with a comprehensive history of my employment with Defendants as well as numerous documents relating to my employment with Defendants. As I was still employed when this action was filed, I was able to provide information to my attorneys of my working conditions and investigate any further questions from my attorneys, including providing information about the union collective bargaining agreement in place. I estimate I was in communication with my attorneys and their office at least once a month from the time of filing to the date of the mediation (approximately one year).

4. When I filed my case, I agreed to participate actively in my case and to assume the risks of serving as a named plaintiff, including the potential financial risk of paying Defendant's costs if I did not win the lawsuit. I also agreed to pursue not only my potential wage and hour claims, but the claims of all similarly situated employees, and if necessary, to put the interests of the class ahead of my own. I understand that as a Class Representative, I have a duty to protect and

1 act in the best interests of the entire class. There is no conflict between myself and any member of
2 the class, and my interests are in no way antagonistic to the interests of any class members.

3 5. Throughout this litigation, I regularly conferred with my attorneys to discuss the
4 status of the case, to offer my input, and to assist my attorneys in gathering the evidence necessary
5 to prosecute the class claims. (Although the preservation of my attorney-client privilege requires
6 that I refrain from revealing the specifics of my communications with my attorneys, I understand
7 that the privilege is not waived by stating generally matters that I have discussed with my attorneys.)
8 During our many conversations, and partly in response to my numerous questions, my attorneys
9 kept me well informed about the phases of class action litigation, the strategies for prosecuting each
10 phase, and the risks associated with those strategies.

11 6. Prior to commencing my case, my attorneys provided me with a draft of the class
12 action complaint for my review and approval. I reviewed the complaint closely to ensure both its
13 accuracy and completeness, and my attorneys filed the complaint only after I had approved its
14 content.

15 7. Following the filing of the complaint, I worked closely with my attorneys and
16 actively participated in the prosecution of my claims by, among other things, reviewing documents
17 and pleadings, providing information that assisted my attorneys. In particular, I participated in
18 multiple discussions with my attorneys regarding the job duties, daily activities and pay scales of
19 each position and other categories of employees within the putative class, I gave detailed
20 information about Defendant's timekeeping, schedule, and payroll practices, and I educated my
21 attorneys on the intricacies and details of Defendants' unique business. I also responded to
22 questions from my attorneys regarding Defendants discovery responses.

23 8. I actively participated in the full-day mediation and was present at my attorney's
24 office during the mediation. I actively assisted my attorneys during the settlement negotiations
25 (including providing feedback and information in preparation for and during mediation) and
26 responding to questions from the mediator. I have actively reviewed the terms of the proposed
27 settlement. My attorneys explained the specifics of how the settlement would work, and I accepted
28 the settlement only after I had spent enough time evaluating the proposed outcome to assure that it

1 was fair. Based on my attorneys' evaluation and recommendation, and my own review, I believe
2 the settlement is fair and reasonable and adequately compensates Class Members, and my support
3 for the settlement is not contingent upon my receipt of an incentive award.

4 9. I have been advised by my attorneys that the counsel working on the matter filed by
5 Pedro Negrete have agreed to share any award of attorney fees in the related actions as follows: (1)
6 60% of the total attorneys' fees awarded will be allocated to The Barkhordarian Law Firm, counsel
7 for Plaintiff Joel Zelaya and Plaintiff Demetrio Montes; and (2) 40% of the total attorneys' fees
8 awarded will be allocated to Wilshire Law Firm PLC, counsel for Plaintiff Pedro Negrete. I agree
9 to the proposed division of attorneys' fees with regards to the proposed settlement of this Action.

10 10. In summary, over the course of this litigation, I have spent a significant amount of
11 time conferring and working with my attorneys on the prosecution of my claims and evaluating the
12 settlement and related documents. I estimate, conservatively, that I have spent approximately
13 twenty-five (25) hours of my time meeting with my attorneys, assisting and providing information
14 to my attorneys in the prosecution of this lawsuit, preparing for and attending mediation, and
15 evaluating the settlement and related documents.

16 11. As a term of the proposed Class Settlement, I have agreed to provide Defendants
17 with a general release of claims arising out of my employment.

18 I declare under penalty of perjury under the laws of the State of California that all the
19 foregoing is true and correct. Executed on July ____, 2023 in LA PUENTE, California.

20 Jul 26, 2023

21 By: 
Joel Zelaya (Jul 26, 2023 09:58 PDT)

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