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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JAMES F. RACHAL JR., an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

v.

ELG METALS, INC., a Pennsylvania
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 20STCV45861

**DECLARATION OF JAMES F. RACHAL
JR. IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: June 23, 2023

Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice

Dept.: 1

1 I, JAMES F. RACHAL, JR., declare as follows:

2 1. I am over the age of eighteen, a California resident, Plaintiff and Proposed Class
3 Representative in the above-entitled matter. I submit this declaration in support of Plaintiff's Motion
4 for Final Approval of Class Action and PAGA Settlement and in support of Plaintiff's Motion for Class
5 Counsel Fees, Litigation Expenses Payment and Incentive Award. I have personal knowledge of all the
6 facts stated herein. I could and would competently testify under oath to these facts in court if requested
7 to do so.

8 2. I retained Class Counsel in August of 2020 and filed the lawsuit in November of 2020. I
9 filed the case on behalf of myself and a class of all non-exempt employees of Defendant in California
10 from January 18, 2017, to July 27, 2022.

11 3. I worked for Defendant as a non-exempt employee in California from approximately
12 September 2003 to March 2020. At all times during my employment with Defendant, I was entitled to
13 legally mandated meal and rest periods, minimum wages, and overtime compensation.

14 4. I filed the case because I believed my rights as an employee were violated by Defendant
15 and also the rights of other employees that worked for Defendant. Among other claims, I believe
16 Defendant failed to pay for all time worked, failed to provide compliant meal and rest periods, failed to
17 furnish accurate itemized wage statements, failed to reimburse for required business expenses, and failed
18 to pay all wages upon separation.

19 5. Before I initiated the case as a plaintiff and Class Representative, I spoke at length with
20 my attorneys. We discussed my work experience and how company policies were applied to me and
21 other employees. I provided the attorneys with documents they requested. We reviewed the documents
22 together and asked and answered many questions regarding my experience working for Defendant, the
23 litigation process, and about class actions generally.

24 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
25 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
26 than merely seeking my individual claims substantially increased the risk to me. Those risks included
27 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
28 I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by

1 the attorneys and the Court because I needed to prove that I was an adequate class representative.
2 Further, I understood that I would lose some autonomy over my individual claims that I could not make
3 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
4 of the Settlement Class in mind.

5 7. I also understood that pursuing this litigation created a very public record of my grievances
6 with Defendant which produced the risk that a future employer could hold it against me that I sued a
7 former employer.

8 8. I also knew that I was making a sacrifice in that I could have pursued my claims only on
9 an individual basis, likely obtaining a recovery greater than the portion of the class settlement I stand to
10 receive from this settlement. My attorneys explained to me that the net settlement value of my individual
11 claims may be greater than my ultimate recovery from the net class settlement amount.

12 9. Notwithstanding these risks and sacrifices, I decided to go through with the case because
13 I believed violations occurred and most employees would not know what their rights are and even if
14 they did, they would be apprehensive to file a lawsuit against their employer for fear of retaliation.

15 10. During the lawsuit I communicated on a regular basis with my attorneys. I reviewed status
16 updates from my attorneys and court filings on a regular basis, and spoke to my attorneys on the phone,
17 because I wanted to keep up with developments in the case which I understood was one of my duties as
18 a class representative.

19 11. **Review and Approval of Settlement:** A mediation was held on March 29, 2022. Even
20 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
21 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
22 with my attorneys after the mediation and discussed the mediator's proposal which was ultimately
23 accepted. I was very satisfied with the terms of the settlement that was agreed to by the parties. I
24 reviewed and signed the Memorandum of Understanding on June 7, 2022, and when the settlement
25 papers were ready, I again spoke with my attorneys and reviewed the settlement agreement which I
26 signed on October 25, 2022. After signing the settlement agreement, the parties subsequently negotiated
27 an amendment to the settlement, which I signed on January 4, 2023.
28

1 12. **Broad General Release:** I understand that the Incentive Award is intended, in part, to
2 compensate me for my release of the Released Class Claims. Additionally, unlike the other Class
3 Members, I also granted Defendant a broad general release and waiver of claims pursuant to California
4 Civil Code section 1542.

5 13. **Participation:** Since I retained Class Counsel approximately thirty-three months ago, I
6 have been actively involved with this class action lawsuit performing the duties described above. While
7 I did not keep formal time records, I was in regular contact with my attorneys, attended hearings,
8 reviewed important court filings, and spent considerable time on the issues presented during the
9 litigation and in the settlement process. I estimate that I spent approximately 20-25 hours working on
10 this case.

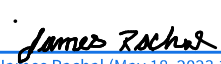
11 14. Also, my attorneys explained to me that the settlement process involved a two-step review
12 by the Court to determine whether the settlement was fair before ordering that the settlement be funded
13 and paid. I knew this process also involved notifying all class members of the settlement terms and of
14 their rights to make a claim for their settlement share, to opt out of the settlement or to object to the
15 settlement.

16 15. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who
17 now stand to receive substantial monetary payments as a result of this case and settlement. I also believe
18 that the requested Incentive Award in the amount of \$10,000 from the settlement is fair compensation
19 for the (1) the broad general release I executed, (2) the work I performed, (3) the sacrifices made not
20 pursuing this case individually, and (4) the risks I undertook.

21 16. In light of all the time and effort I have spent on this case, the sacrifice I have made, the
22 risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's
23 costs in the event we did not win the case, and in light of the size of the settlement, I believe the request
24 for \$10,000 as a service award is fair and reasonable.

25 17. Further, I support my attorneys' application for a Class Counsel Fee and Litigation
26 Expenses Payment in the amount of \$90,833.33, comprised of \$70,833.33 for attorneys' fees (one-third
27 of the Gross Settlement Amount) and up to \$20,000 for reimbursement of actually incurred litigation
28 expenses.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on May 18, 2023, at 12:50, California.

3
4 By:  11
James Rachal (May 18, 2023 12:50 PDT)
5 JAMES F. RACHAL JR.