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

DAMONTAE LEVINGSTON, KEVIN
PEARSON, MARK GUTIERREZ, and
PAUL RODRIGUEZ, as individuals and
on behalf of all others similarly situated,

Plaintiffs,

v.

COMMERCE DISTRIBUTION
COMPANY LLC., a California Limited
Liability Company; SMART & FINAL
LOGISTICS LLC, a Delaware limited
liability company; SMART & FINAL
STORES, LLC, a California limited
liability company, and SMART & FINAL
LLC, a Delaware limited liability company
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 22STCV05730

*[Assigned for all purposes to the Hon. Randolph
M. Hammock; Dept. 49]*

**DECLARATION OF KEVIN PEARSON IN
SUPPORT OF APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 5, 2023
Time: 8:30 a.m.
Dept.: 49

Action Filed: February 15, 2022
Trial Date: None Set

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I, KEVIN PEARSON, declare as follows:

1. I am an individual over the age of 18 and a named plaintiff in this matter. This declaration is submitted in support of approval of the proposed class action settlement (“Settlement”) reached in this case. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I worked for defendant Smart & Final Logistics, LLC (“Smart & Final”) as an Order Selector in their cold storage facility warehouse, from approximately August 2007 until approximately August 2021. Throughout my employment with Smart & Final, my duties included building pallets with inventory from the warehouse that were then shipped to Smart & Final’s stores.

3. Throughout my employment with Smart & Final, I worked overtime hours and earned shift premiums and/or incentive bonuses in the same pay period. However, Smart & Final paid my overtime wages in those pay periods at my base hourly rate of pay. Similarly, in pay periods in which I earned shift premiums or incentive bonuses and also received a meal period premium, rest period premium, or sick pay, my meal and rest period premium payments and sick pay were paid at my base hourly rate of pay. Additionally, up until approximately 2019, Smart & Final had a rest period policy that required that I remain at my work site during my rest periods. Moreover, throughout my employment, Smart & Final provided me with wage statements that regularly listed the incorrect number of hours I had worked in the pay period and included negative amounts for certain payroll codes that were deducted from my wages. I found these wage statements to be confusing.

4. On February 2, 2022 I filed a class-action lawsuit in Los Angeles County Superior Court against Smart & Final, entitled *Kevin Pearson v. Smart & Final Logistics LLC*, Case No. 22STCV04115. I later learned that multiple other employees of Smart & Final had filed similar lawsuits against the company, including this lawsuit filed by Damontae Levingston, asserting overlapping claims as those that I had alleged in my lawsuit. As part of the global settlement that was reached here, I agreed to join this lawsuit as a named plaintiff, and to dismiss my lawsuit

1 without prejudice.

2 5. I brought my lawsuit against Smart & Final because I felt that Smart & Final did
3 not pay me or its other employees all of the wages we were owed or provide us with legally
4 compliant rest periods and wage statements. I want Smart & Final to comply with the law and
5 treat their employees fairly. I feel that the other named plaintiffs and I have taken on a greater
6 burden than any of the other class members because I have been actively involved in the litigation
7 since before I filed my lawsuit in February 2022, and because my name is attached to the lawsuit.
8 Although I was aware of the risks of filing a lawsuit, I chose to move forward with the case
9 anyway. Through my efforts, and those of the other named plaintiffs, Smart & Final has agreed
10 to a Settlement that will benefit current and former employees of Smart & Final, and I believe
11 that I should be compensated for carrying the burden of this litigation for the benefit of the other
12 employees.

13 6. I have been actively involved in this case since it was filed. Among other things, I
14 searched for relevant documents for use in the lawsuit and provided factual information to my
15 attorneys, had various phone calls with my attorneys to discuss the claims in the lawsuit and Smart
16 & Final's practices, and had conversations with my attorneys prior to mediation to help them
17 prepare. I estimate that I have spent approximately 10 to 15 hours in total on these activities.

18 I declare under penalty of perjury under the laws of the state of California and the United
19 States that the foregoing is true and correct. Executed on Feb 03, 2023 at
20 San Bernardino, California.

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22 Kevin Pearson (Feb 3, 2023 23:36 PST)

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