

Brian J. Mankin, Esq. [SBN 216228]
brian@lmlfirm.com
Misty M. Lauby, Esq. [SBN 243009]
misty@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff Daniel Lopez and on behalf of the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

DANIEL LOPEZ, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

MARTINEZ CONCRETE, INC., a
California Corporation, ROBERTO
MARTINEZ, an Individual, and DOES 1
through 20, inclusive;

Defendants.

Case No.: CIVSB2208282
*[Assigned to Hon. Joseph Ortiz, Dept. S17, for
all purposes]*

**DECLARATION OF PLAINTIFF DANIEL
LOPEZ IN SUPPORT OF PLAINTIFF'S
MOTION FOR FINAL APPROVAL**

Hearing
Date: February 27, 2024
Time: 1:30 p.m.
Dept: S17

Complaint filed: April 21, 2022

I, Daniel Lopez, state and declare:

1. I am a Plaintiff in the above captioned action and have personal knowledge of all matters stated herein and could competently testify thereto.

2. I make this declaration in support of the motion for final approval of the class action settlement reached in this matter. As discussed herein, I believe that the settlement is fair and reasonable and constitutes a fair resolution of the claims alleged.

3. I was employed by Defendants from approximately July 24, 2019 through February 18, 2022. During my employment for Defendants, there were several issues that

1 concerned me and which I thought did not comply with California law, such as not being paid
2 properly, not providing proper wage statements, and not getting proper meal periods and rest
3 breaks. Even though I believed the company might be violating California law, I did not take
4 action while employed because I did not want to risk losing my job or being treated differently as
5 a whistleblower. After that happened, and even though I was unsure if I wanted to bring a
6 lawsuit because of the risk of stepping forward as a whistleblower (since this could jeopardize
7 my livelihood in the industry and make it difficult to find future jobs), I retained Lauby, Mankin
8 & Lauby LLP to move forward with a case because I did not think that myself or the other
9 employees were being treated correctly.

10 4. After retaining my attorneys, I understood that I had two options: I could pursue
11 my individual case alleging wage an hour issues to maximize my personal recovery, or I could
12 bring a class/representative action and put the interests of the class ahead of my own. The
13 decision of whether to bring my individual claims or to bring a class action put me in a tough
14 spot, because on the one hand, I wanted to hold the company accountable for how they treated
15 me and, on the other hand, I wanted to help other employees that were not paid correctly. And I
16 knew that, if I wanted to bring a class action, I would need to put the interests of the class first
17 to better serve the class. In the end, in the interest of helping all employees that were subjected
18 to the wage violations, I decided to help everyone by bringing a class/representative action.

19 5. I believe that Defendant's illegal wage and hour practices that form the basis for
20 the claims in this matter affected all of its hourly employees in a similar manner as they affected
21 me.

22 6. I was employed by Defendants in a non-exempt position during the alleged class
23 and PAGA periods and the claims that I made in this action are typical and impacted the entire
24 class of represented employees.

25 7. I believe that I have no conflicts of interest with other class members and have
26 agreed to place class interests above my own.

27 8. I respectfully request that the Court approve the agreed-upon service award for
28 the following reasons.

1 9. First, I have spent substantial time working on this case, I estimate that I have
2 spent at least fifty (50) hours engaged in activities to benefit the class. I have assisted my attorneys
3 in numerous ways, including helping to explain and discuss the company's practices and their
4 general practices and procedures, and locating and analyzing company documents. These efforts
5 occurred through telephone conferences with Class Counsel, telephone conferences, letters, and
6 email communications. I also assisted in preparation for mediation and helped obtain a positive
7 result for the class.

8 10. Second, I respectfully request that the Court approve the agreed-upon service
9 award because I agreed to set aside my personal interests and to put the interests of the class
10 ahead or on par with my own. In doing so, and by successfully bringing this case as a class
11 action, I helped to obtain a highly beneficial settlement for the class members.

12 11. Third, as a condition of this class action settlement, I was required to release and
13 waive all possible individual claims against the company – something that none of the other class
14 members were required to give up.

15 12. Fourth, by bringing this case as a class action, I undertook significant risks and
16 stresses at a high emotional cost without any guarantee of success. For example, filing this
17 lawsuit and being a whistle blower was stressful on a day-to-day basis as I have constantly
18 worried about the risk that this case could impact my ability to find future jobs. And this
19 stress/risk lasted for the entire case, and I'm worried it may make it hard to find a job in the
20 future since the case information is all available online.

21 13. Fifth, bringing this case also came with a major financial risk because, if I lost the
22 case, I would be required to pay the company's costs, which could be over \$10,000, and there
23 was a chance they could try to make me pay their attorneys' fees as well.

24 14. For the reasons stated above, I respectfully request that the Court approve the
25 agreed-upon service award.
26
27
28

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed on January 23, 2024, at Rialto, California.

3
4 By: 
5 [Daniel Lopez \(Jan 23, 2024 14:36 PST\)](#)
6 Daniel Lopez
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28