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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual, on
behalf of themselves and on behalf of all
persons similarly situated,

Plaintiffs,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. **22-CIV-03291**

**DECLARATION OF CHAMARIE
SPEARS IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: March 21, 2024

Hearing Time: 9:00 a.m.

Judge: Hon. Susan L. Greenberg
Dept.: 3

Action Filed: September 27, 2022

Trial Date: Not set

1 I, ChaMarie Spears, 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 Vitalant in California from July of 2021 to May of 2023 and
10 during that time period I was classified by Vitalant as a non-exempt employee.

11 4. I retained my attorneys who are experienced in both class action and PAGA
12 representative action litigation and claims against employers for violations of the California
13 Labor Code and the Fair Credit Reporting Act. I have no personal relationship or family ties to
14 my attorneys or any officer of the Court. I am not aware of having any actual or potential
15 conflicts of interest with another class member in this case nor am I aware of having any actual
16 or potential conflicts of interest with ILYM Group, Inc., the settlement administrator. I am not
17 aware of any other pending matter or action asserting claims that will be extinguished or
18 adversely affected by this settlement.
19

20 5. I decided to pursue this class action lawsuit and be a plaintiff/class representative
21 because I felt that my legal rights as an employee and others like me were violated. For
22 example, due in part to understaffing combined with a high work volume, I was regularly unable
23 to take compliant meal and rest breaks. While I did receive meal break penalty payments when
24 meal break violations occurred, I did not receive rest break penalty payments for rest break
25 violations. I was also not paid for all compensable time such as when I had to spend time off the
26

1 clock adhering to Vitalant's rules which involved putting on and taking off personal protective
2 gear. I was also required to use my personal cell phone for work-related issues such as clocking
3 in and out, requesting time off and viewing my schedule. I was not reimbursed for the expenses I
4 incurred using my phone for work-related purposes. In addition, during the hiring process, I was
5 required to complete an application and sign a consent form permitting a background check to be
6 conducted on me. However, as I have since come to understand, the disclosure forms included
7 extraneous information such as state law notices and, therefore, rendered the background check
8 non-compliant with the law.

10 6. I spoke to my attorneys several times and discussed how Vitalant implemented
11 its company policies and procedures. I also assisted my attorneys in their investigation into my
12 claims by providing them documents and answering their questions. I reviewed the complaint
13 before it was filed and after it was filed I was given access to an electronic file sharing program
14 that alerted me via email when important documents were filed so that I could review them and
15 keep up with the developments in the case which I understood was one of my duties as a class
16 representative. I was also able to access documents from this case on the firm's website.

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

25 8. I understood that being a plaintiff/class representative in this case meant that I
26 was seeking damages not only for myself but also other individuals who make up the class. I felt
27

1 that these individuals were not aware of their labor law rights and even if they were they would
2 probably be apprehensive about speaking up or even simply because of the time, effort and risk
3 involved in filing a class action lawsuit.

4 9. I understood that being a part of this lawsuit involved risks. For example, my
5 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
6 pay for all or part of the attorney fees and costs paid by Vitalant to defend this lawsuit. Also, I
7 knew there was a risk that future employers, if they ever find out about this lawsuit, could hold it
8 against me or downgrade me as a potential hire. As one of only two named Plaintiffs in this case
9 it would not be difficult for a future employer to become aware that I sued my employer for labor
10 law violations. Ultimately I decided these risks were worth it and decided to fight for my rights
11 and the rights of others regardless of the risks, time and effort I spent on this case.
12

13 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
14 kept up to date on important developments by reviewing court filings that were made available to
15 me electronically as I described above.
16

17 11. A mediation took place on April 28, 2023 with David Rotman, a well-respected
18 and experienced mediator of wage and hour class actions. After the mediation the parties were
19 able to reach an agreement to settle the action based on a mediator's proposal. I communicated
20 with my attorneys regarding the terms of the settlement which was reached between the parties
21 and understood that I was representing absent class members and therefore wanted the best
22 possible result to be obtained for the class members and I believe a very positive result was in
23 fact achieved via settlement.
24

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

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

13 14. I believe I did the right thing by filing this case on behalf of the class members who,
14 subject to court approval, are in line to receive monetary payments as a result of this case and
15 settlement. This is money they may never have ever gotten if I did not pursue this action on their
16 behalf. I feel significant personal satisfaction to know that I played a role in the class members
17 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
18 the requested Class Representative Service Payment of \$12,500 from the settlement is fair
19 compensation for the work I performed and the risks I undertook.
20

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

25 16. In light of all the time and effort I have spent on this case, the risk I undertook by
26 suing my employer, the exposure to being responsible for paying the defendant's costs in the
27 event we did not win the case, the reputational risk that future employers may hold this lawsuit
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1 against me, the general release and in light of the size of the settlement, I believe the request for
2 \$12,500 as a Class Representative service payment is fair and reasonable.

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

5 Executed on Feb 20, 2024, at Oakland, CA
6 (city, state)

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8 ChaMarie Spears (Feb 20, 2024 13:33 PST)
9 ChaMarie Spears
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