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7 Attorneys for Plaintiff FLORENTINO LOPEZ

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 FLORENTINO LOPEZ, individually,
12 and on behalf of all others similarly
situated,

13 Plaintiff,

14 vs.
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16 UTILITY TREE SERVICE, LLC, a
Pennsylvania Limited Liability
Company; and DOES 1 through 10,
17 inclusive,

18 Defendant.
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Case No. 3:22-cv-01404-JES-DDL

**DECLARATION OF
FLORENTINO LOPEZ IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
PAGA ACTION SETTLEMENT**

Date: February 14, 2024
Time: 9:00 a.m.
Courtroom: 4(B)

Action Filed: September 15, 2022
Trial Date: Not Yet Set

1 **DECLARATION OF FLORENTINO LOPEZ**

2 I, FLORENTINO LOPEZ, declare as follows:

3 1. I am a named Plaintiff in this case. I am a former employee of
4 Defendant Utility Tree Service, LLC (“Utility Tree”). As such, I have personal
5 knowledge of, or am informed and believe, the following facts herein stated. If
6 called as a witness, I could and would testify competently to the following:

7 **JOB DUTIES AND EXPERIENCE**

8 2. I worked for Utility Tree throughout San Diego county at various
9 sites as a Line Technician for approximately 20 years. My employment began on
10 December 3, 2001 and ended in June 2021. During my employment with Utility
11 Tree, I was paid on an hourly basis and was considered a non-exempt employee.

12 **DUTIES OF A CLASS REPRESENTATIVE**

13 3. This lawsuit is not an individual lawsuit. It is a proposed class action.
14 I understand that, if approved as a class representative in this matter, I have an
15 obligation to do my best to look out for the interests of other class members, the
16 current and former employees of Utility Tree, who I am seeking to represent. I
17 understand that my obligations to the class exist even when the class is certified
18 solely as part of a class action settlement. It is my understanding that, as one part
19 of this duty to the class, I cannot agree to a settlement to benefit myself to the
20 exclusion of the rest of the class members. I have never asked my attorneys to
21 simply settle this matter at any cost. Rather, I have asked them to obtain the best
22 settlement they could within reason, and I believe that they have attempted to do
23 so.

24 4. I also understood that in pursuing the claims of others, I was agreeing
25 to be what I understand is called a fiduciary litigant. I understand that to mean I
26 am obligated to pursue the best interests of both the State of California, and of all
27 members of the proposed class in the litigation. I also understand that to mean I
28 must consider the interests of the State and the class as if they were my own

DECLARATION OF FLORENTINO LOPEZ

1 interests, and that I may not put my own interests ahead of those of the State and
2 of the class as a whole.

3 5. This case was filed more than a year ago. I have never asked to be
4 relieved from my role as a proposed class representative. To the contrary, I have
5 made myself available whenever my attorneys wanted to discuss aspects of my
6 employment at Utility Tree, and I remain committed to seeing this matter through
7 to the end.

8 6. I have conferred with my attorneys about the settlement proposed in
9 this case. I am not an accountant, but I understand the factors and risks that need
10 to be considered when evaluating a settlement.

11 7. Summing it all up in the simplest terms, I am asking to be the stand-
12 in for other employees of Utility Tree. Because of that, I cannot quit on the class,
13 and I cannot put myself and my interests before the class. I accept these duties and
14 request that I be approved as the class representative for purposes of this amended
15 Settlement.

16 COMMUNITY OF INTEREST: TYPICALITY AND ADEQUACY

17 8. I was an hourly-paid, non-exempt employee of Defendant during the
18 class period and was subject to the same pay structure and rules as all the other
19 hourly-paid, non-exempt employees of Defendant.

20 9. I believe Defendant's illegal wage and hour practices that affected me
21 also affected all of its hourly-paid, non-exempt employees. For instance, the
22 practice of having to come in before the scheduled shifts and/or to stay after the
23 scheduled shifts and not being compensated for this time was common among all
24 employees, including those who worked in other positions.

25 10. I am not aware of anything special about me that would raise unique
26 defenses to my claims, as opposed to the claims of the class. My claims are based
27 upon the same facts that relate to the rest of the Class.
28

1 11. I do not believe that I have any conflicts with the class members
2 included in this proposed settlement. I do not have any intention to take any action
3 that would place me in a position that is hostile to other class members.

4 SERVICES AS A CLASS REPRESENTATIVE

5 12. I believe that were it not for my stepping forward and taking on the
6 duties of protecting the interests of other Utility Tree employees, it is likely that
7 the interests of the class would neither have been prosecuted, nor benefited. To
8 my knowledge, other than the litigation encompassed by this proposed Settlement,
9 there is no other litigation, on a class or individual basis, concerning the claims in
10 this lawsuit nor has Defendant pointed to any.

11 13. I have assumed some long-lasting risk in prosecuting this case.
12 Because it is so easy to search for information online these days, I will face an
13 increased risk that future employers may discover information about this lawsuit
14 online and have a negative reaction to learning that I sued an employer. This may
15 make it harder for me to obtain future employment or change jobs for a better
16 opportunity.

17 14. I have devoted a substantial amount of my time, both before this
18 lawsuit was filed and during the litigation to ensure a fair result for the class.
19 After I hired the law firm, Moon Law Group, PC, to represent me in prosecuting
20 this case, I have actively participated in this lawsuit by communicating with my
21 attorneys, providing all relevant facts and documents, and keeping abreast of
22 litigation developments.

23 15. My participation began with bringing certain issues that are involved
24 in this matter to my counsel's attention, and explaining the factual background
25 that was used to prosecute the claims in this case.

26 16. For example, I reviewed documents which I already had, I provided
27 relevant documents to my counsel, and I explained those documents and related
28 facts to my counsel to assist them in their review. I also provided my attorneys

1 with the names of potential witnesses in the case who would also have
2 information to share about their experiences. I also assisted my attorneys in
3 preparing for mediation, and, on the day of mediation, I both made myself
4 available throughout the day of mediation and responded promptly to all of my
5 attorneys' inquiries.

6 17. After the mediation, a long-form settlement agreement was
7 negotiated, and I reviewed it with my attorneys as, and was able to ensure that its
8 terms are likewise fair and adequate. In my opinion, the proposed settlement is in
9 the best interests of both the State and the proposed class. I especially think that
10 settlement amount is fair given that all class members are receiving payments
11 without having to file their own lawsuits. Given my experience with this lawsuit, I
12 know full well just how involved lawsuits can be, and how important it is to get
13 people what they are owed without requiring them to go through this process.

14 18. I conservatively estimate I have spent at least 25 hours working on
15 this case with my attorneys. I expect to spend additional time assisting my
16 attorneys in connection with settlement approval.

17 19. I understand the proposed settlement also includes a proposed
18 incentive award to me in the amount of \$5,000.00. I understand that the Court has
19 discretion to award the proposed incentive award. I personally think that a
20 \$5,000.00 incentive award is fair compensation for the time and risks I have taken
21 to help the State and others here.

22 20. I do not believe that I have any conflicts with the class members
23 included in this proposed settlement.

24 I declare under penalty of perjury, under the laws of the State of California, that
25 the foregoing is true and correct.

26 Executed this 11/22/2023, at San Diego, California.

27 DocuSigned by:

28 *Florentino Lopez*

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Florentino Lopez

DECLARATION OF FLORENTINO LOPEZ