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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10
11 ROBERT SHANNON, BRENELL WHITFIELD,
and ADRIANA VALDEZ, individually and on
12 behalf of all others similarly situated,

13 Plaintiffs,

14 vs.

15 BURTON RESTAURANTS, LLC; HIGH
PERFORMANCE HOSPITALITY LLC; and
16 DOES 1-20, inclusive,
17 Defendants.

Case No. 37-2022-00025778-CU-OE-CTL

18
19 **DECLARATION OF BRENELL
WHITFIELD IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS SETTLEMENT AND AWARD
OF ATTORNEYS' FEES, COSTS AND
SERVICE AWARDS**

Hearing Date: October 18, 2024

Hearing Time: 8:30 a.m.

[Hearing scheduled by Order dated April
18, 2024]

Judge: Hon. Blaine Bowman

Dept.: C-74

Action Filed: June 30, 2022

Trial Date: Not set

1 I, Brenell Whitfield, 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 Final Approval of
4 Class Settlement and in support of my application for a Class Representative Service Payment.
5

6 2. I have personal knowledge of all the facts stated herein. I could and would competently
7 testify under oath to these facts in court if requested to do so.

8 3. During the class period, I worked as a Shift Lead for Defendants Burton Restaurants,
9 LLC and High Performance Hospitality LLC (“Defendants”) in California and during that time
10 period I was classified by Defendants 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. I have no personal relationship or family ties to my attorneys or any officer of the
14 Court. I am not aware of having any actual or potential conflicts of interest with another class
15 member in this case nor am I aware of having any actual or potential conflicts of interest with
16 Phoenix Class Action Administration Solutions, the settlement administrator. I am not aware of
17 any other pending matter or action asserting claims that will be extinguished or adversely
18 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 example,
22 I often did not receive compliant meal and rest breaks which were late, interrupted or missed
23 entirely. I also did not receive all the meal and rest break premiums I was entitled to and when I
24 did receive premium payments they were often an incorrect amount. Additionally, I was required
25 to use my personal cellular phone for company business without reimbursement by Defendants. I
26

1 was also required to work off the clock at times, after hours for example, but I was not paid any
2 wages for this time I worked for the company.

3 6. I spoke to my attorneys several times and discussed how Defendants implemented their
4 company policies and procedures. I also assisted my attorneys in their investigation into my
5 claims by providing them documents and answering their questions. I reviewed the complaint
6 before it was filed and after it was filed, I was given access to an electronic file sharing program
7 that alerted me via email when important documents were filed so that I could review them and
8 keep up with the developments in the case which I understood was one of my duties as a class
9 representative. I would also contact my attorneys from time to time if I had any questions about
10 the case.
11

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

19 8. I understood that being a plaintiff/class representative in this case meant that I was
20 seeking damages not only for myself but also other current and/or former non-exempt employees
21 working for Defendants in California who make up the class. I felt that these individuals were
22 not aware of their labor law rights and even if they were they would probably be apprehensive
23 about speaking up or even simply because of the time, effort and risk involved in filing a class
24 action lawsuit.
25

26 9. I understood that being a part of this lawsuit involved risks. For example, my attorneys
27

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

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

12 11. A mediation took place on March 30, 2023 with Hon. Carl J. West (Ret.), a well-
13 respected and experienced mediator of wage and hour class actions. After the mediation the
14 parties were able to reach an agreement to settle the action. I communicated with my attorneys
15 regarding the terms of the settlement which was reached between the parties and understood that
16 I was representing absent class members and therefore wanted the best possible result to be
17 obtained for the class members and I believe a very positive result was in fact achieved via
18 settlement. I reviewed and signed the Memorandum of Understanding on July 27, 2023 and
19 when the final settlement papers were ready, I closely reviewed the Settlement Agreement which
20 I signed on October 24, 2023.

22 12. I have been actively involved with this lawsuit performing the duties described above.
23 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
24 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
25 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
26

1 up until this point. I believe I have been diligent and have done what is expected of a named
2 plaintiff and a proposed class representative to date and will continue to do so. I have and always
3 will maintain the best interests of the class members.

4
5 13. My attorneys explained to me that the settlement process involves a two-step review by
6 the Court to determine whether the settlement is fair before approving the settlement. I know
7 this process also involves notifying all class members of the settlement terms and of their rights
8 to make a claim for their settlement share, to opt out of the settlement or to object to the
9 settlement.

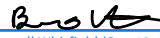
10 14. I believe I did the right thing by filing this case on behalf of the class members who,
11 subject to court approval, are in line to receive monetary payments as a result of this case and
12 settlement. This is money they may never have ever gotten if I did not pursue this action on their
13 behalf. I feel significant personal satisfaction to know that I played a role in the class members
14 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
15 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
16 compensation for the work I performed and the risks I undertook.

17
18 15. As part of the settlement it was necessary for me to sign a general release of all claims I
19 may have against Defendants. I believe the Class Representative Service Payment I have
20 requested provides me with some compensation for this agreed release.

21
22 16. In light of all the time and effort I have spent on this case, the risk I undertook by suing
23 my employer, the exposure to being responsible for paying Defendant's costs in the event we did
24 not win the case, the reputational risk that future employers may hold this lawsuit against me, the
25 general release and in light of the size of the settlement, I believe the request for \$10,000 as a
26 Class Representative service payment is fair and reasonable.

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

3 Executed on Sep 19, 2024, at San Diego, California
4 (city, state)

5
6 
[Brenell Whitfield \(Sep 19, 2024 05:25 PDT\)](#)
7 Brenell Whitfield