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Attorneys for Plaintiffs Isabel Rodriguez and Daniel Tovar

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

ISABEL RODRIGUEZ and DANIEL TOVAR,
on behalf of themselves all employees similarly
situated,

Plaintiffs,

v.

ROY MILLER PAINTING, INC., a California
Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2023-01314830-CU-OE-CXC

[Assigned for all purposes to Hon. Melissa R.
McCormick, Dept. CX104]

**CLASS AND PAGA REPRESENTATIVE
ACTION**

**DECLARATION OF PLAINTIFF DANIEL
TOVAR IN SUPPORT OF PLAINTIFFS'
MOTION FOR APPROVAL OF CLASS AND
PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Reservation N: 74214837

Date: May 16, 2024

Time: 2 p.m.

Courtroom: Dept. CX104

Judge: Hon. Melissa R. McCormick

DECLARATION OF DANIEL TOVAR

I, DANIEL TOVAR, declare as follows:

1. I am one of the named Plaintiffs in this case as an employee of the named defendant, ROY MILLER PAINTING, INC. ("Defendant"). As such, I have personal knowledge of, or am informed and believe, the following facts herein stated. If called as a witness. I could and would testify competently to the following:

JOB DUTIES AND EXPERIENCES

2. I worked for Defendant during the Settlement Class Period as a painter from approximately July 2022 to October 2022 and from approximately September 2019 to March 2020. I was paid on hourly basis and classified as non-exempt from overtime. Throughout my employment, I typically worked 5 days per workweek, and typically in excess of 8 hours in a workday.

3. While working for Defendant, I was required to combine my first meal periods with first rest periods. I was never authorised to take my second rest periods. Additionally, I was required to work off-the-clock through my meal periods but was not paid for that time. While working for Defendant, I was required to record my time using an application on my personal cell phone as well as to communicate with my supervisors using my personal cell phone but was not reimbursed for my personal cell phone usage.

DUTIES OF A CLASS REPRESENTATIVE

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

5. I have been actively involved in this case since I first retained Tunyan Law, APC. I have

1 never asked to be relieved from my role as a proposed class representative. To the contrary, I have
2 made myself available whenever my attorneys wanted to discuss aspects of my employment at ROY
3 MILLER PAINTING, INC., and I remain committed to seeing this matter through to the end.

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

7 7. I am asking to be the stand-in for other employees of ROY MILLER PAINTING, INC.
8 Because of that, I cannot quit on the Class, and I cannot put myself and my interests before the Class. I
9 accept these duties and request that I be approved as the class representative for purposes of this
10 Settlement.

11 COMMUNITY OF INTEREST: TYPICALITY AND ADEQUACY

12 8. I was an hourly non-exempt employee of Defendant and was subject to the same pay structure
13 and rules as all the other hourly non-exempt employees of Defendant.

14 9. I am not aware of anything special about me that would raise unique defenses to my claims, as
15 opposed to the claims of the class. I am also not suing for anything unique to me. Rather, my claims are
16 based upon the same facts that relate to the rest of the Class.

17 10. I do not believe that I have any conflicts with Class Members included in this proposed
18 Settlement. I do not have any intention to take any action that would place me in a position that is
19 hostile to other Class Members.

20 SERVICE AS A CLASS REPRESENTATIVE

21 11. I believe if not for my and another named plaintiff's stepping forward and taking on the
22 duties of protecting the interests all aggrieved former and current employees of Defendant, it is likely
23 that the interests of the Class would neither have been prosecuted, nor benefited. To my knowledge,
24 other than the litigation encompassed by this proposed Settlement, there is no other litigation, on a
25 Class or individual basis, concerning the claims in this lawsuit. Nor has Defendant pointed to any.

26 12. I have assumed some long-lasting risk in prosecuting this case. Because it is so easy to
27 search for information online these days, I will face an increased risk that future employers will
28 discover information about this lawsuit online and have a negative reaction to learning that I sued an

1 employer. This may make it harder for me to obtain future employment or change jobs for a better
2 opportunity.

3 13. I have devoted a substantial amount of my time, both before this lawsuit was filed and
4 also during its litigation, to ensure a fair result for the employee Class. This involved ongoing
5 communication and participation with my Counsel during the course of this case.

6 14. My participation began with bringing certain issues that are involved in this matter to
7 my Counsel's attention and explaining the factual background that was used to prosecute the claims in
8 this case. For example, I reviewed documents which I already had, I provided relevant documents to
9 my Counsel, and I explained those documents and related facts to my Counsel to assist them in their
10 review during multiple meetings with my attorneys.

11 15. My efforts continued after the suit was filed. For example, I have had many discussions
12 with the attorneys at Tunyan Law, APC regarding Defendant's wage and hour policies, my claims in
13 this case, litigation strategy, updates on how the case was proceeding, and how I could help the case. I
14 also discussed strategy with my Counsel. I remained in regular communication with my attorneys
15 regarding discovery and settlement discussions that the parties had during the course of litigation and
16 mediation. I provided substantial information and documents to my attorneys to assist them in
17 preparing the case.

18 16. After the mediation, a long-form settlement agreement was negotiated, and I reviewed it
19 with my Counsel to ensure that its terms are likewise fair and adequate.

20 17. In sum, in addition to assuming the risks that go along with being a class representative
21 and named plaintiff in litigation, I believe I have also provided well over 25 hours of my time during
22 the course of this litigation to ensure a good outcome for the best interests of the Class.

23 20. I do not believe that I have any conflicts with Class Members included in this proposed
24 Settlement.

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

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Executed

1/17/2024 | 7:17 PM PST

at Santa Ana, California.

DocuSigned by:

Daniel Tovar

DANIEL TOVAR, "Declarant"

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age
6 of 18 and not a party to the within action; my business address is 535 N. Brand Blvd., Suite
7 285, Glendale, California 91203.

8 On the date indicated below, I served the document described as: **DECLARATION OF
9 PLAINTIFF DANIEL TOVAR IN SUPPORT OF PLAINTIFFS' MOTION FOR
10 APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT**
11 on the interested parties in this action by sending a true copy thereof to interested parties as
12 follows and as stated on the attached service list:

13 Greg S. Labate
14 glabate@sheppardmullin.com
15 Molly Brooks
16 MBrooks@sheppardmullin.com
17 Lauren J. Blaes
18 lblaes@sheppardmullin.com
19 Seana Pierce
20 SPierce@sheppardmullin.com

21 **Sheppard, Mullin, Richter & Hampton, LLP**
22 650 Town Center Drive, 10th Floor
23 Costa Mesa, California 92626-1993
24 Telephone: 714-513-5100
25 Facsimile: 714-513-5130

26 *Attorneys for Defendant Roy Miller Painting, Inc.*

27 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale,
28 California, by e-mail delivery on the parties listed herein at their most recent known
e-mail address or e-mail of record in this action.

[✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept electronic
service, I caused the documents to be sent to the persons at the electronic service addresses
listed above via electronic mail. I did not receive an error message.

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

Executed on January 26, 2024 at Glendale, California.

Lilit Tunyan

