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Attorneys for Plaintiff SEAN W POWERS,
as an individual and on behalf of all
employees similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

SEAN W POWERS, as an individual and on
behalf of all employees similarly situated,

Plaintiff,

v.

MARIO'S PLACE, INC., a California
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No.: CVRI2301652

[Assigned for all purposes to Hon. Harold W.
Hopp, Dept. 10]

CLASS ACTION

**DECLARATION OF PLAINTIFF SEAN W
POWERS IN SUPPORT OF MOTIONS FOR
APPROVAL OF CLASS AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Date: May 15, 2024
Time: 8:30 a.m.
Courtroom: Dept. 10
Judge: Hon. Harold W. Hopp

Action Filed: April 3, 2023
Trial Date: Not Set

DECLARATION OF SEAN W POWERS

I, SEAN W POWERS, declare as follows:

1. I am a named Plaintiff and Class Representative in this case. I am a former employee of the named Defendant MARIO'S PLACE, 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 Class Period as an hourly-paid employee from August 8, 2021 to April 9, 2022. I was paid on hourly basis and classified as non-exempt from overtime.

3. During my employment, I experienced problems with taking all uninterrupted, 30-minute meal periods, taking all of my rest breaks, receiving reimbursement for work-related expenditures, and receiving all pay for all hours that I worked. During my employment, I also experienced problems with unsafe and hostile working environment which I reported to Defendant's management.

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 Defendant 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 made myself available whenever my attorneys wanted to discuss aspects of my employment by Defendant, and I remain committed to seeing this matter through to the end.

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

1 settlement. I believe that the Class Action Settlement obtained on behalf of the Class Members is fair
2 and reasonable in view of the issues and risks involved with the case.

3 7. I am asking to be the stand-in for other employees of Defendant. Because of that, I
4 cannot quit on the Class, and I cannot put myself and my interests before the Class. I accept these
5 duties and request that I be approved as the class representative for purposes of this amended
6 Settlement.

7 COMMUNITY OF INTEREST: TYPICALITY AND ADEQUACY

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

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

13 10. I do not believe that I have any conflicts with Class Members included in this proposed
14 Settlement. I do not have any intention to take any action that would place me in a position that is hostile
15 to other Class Members. I also do not believe I have any conflicts of interest with the selected class
16 action settlement administrator.

17 SERVICE AS A CLASS REPRESENTATIVE

18 11. I believe that were it not for my stepping forward and taking on the duties of protecting
19 the interests of other Defendant employees, it is likely that the interests of the class would neither have
20 been prosecuted, nor benefited. To my knowledge, other than the litigation encompassed by this
21 proposed Settlement, there is no other litigation on a class basis, concerning the claims in this lawsuit
22 nor have Defendant pointed to any.

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

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

1 opportunity.

2 14. I have devoted a substantial amount of my time, both before this lawsuit was filed and
3 also during its litigation to ensure a fair result for the employee class. This involved ongoing
4 communications and participation with my counsel during the course of this case. My participation
5 began with bringing certain issues that are involved in this matter to my counsel's attention, and
6 explaining the factual background that was used to prosecute the claims in this case. For example, I
7 reviewed documents which I already had, I provided relevant documents to my counsel, and I
8 explained those documents and related facts to my counsel to assist them in their review. I also
9 assisted in identifying potential witnesses, including other employees, who might likewise have been of
10 assistance.

11 15. My efforts continued after 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, potential witnesses, discovery, updates on how the case was proceeding,
14 and how I could help the case. I also discussed strategy with my counsel. I remained in regular
15 communication with my attorneys regarding discovery and settlement discussions that the parties had
16 during the course of litigation and mediation. I continued to identify employees and other witnesses to
17 counsel, along with other information as to how they could be of potential use in this matter. I also
18 provided substantial information and documents to my attorneys to assist them in preparing the case. I
19 also made myself available to answer questions during the settlement negotiations.

20 16. After the settlement negotiations, a long-form settlement agreement was negotiated, and
21 I reviewed it with my attorneys as well as I was able to ensure that its terms are likewise fair and
22 adequate.

23 17. I believe that the Class Representative service payment of \$7,500 for me is fair and
24 reasonable as it takes into consideration the fact that I have always considered the interests of the other
25 Class Members just as I have my own interests and understand that I have to put the interests of the other
26 Class Members before my own. I have not negotiated or entered into any undisclosed separate settlement
27 and release agreements for general release of my non-wage related claims, nor have I received any
28 undisclosed compensation in this case. The only compensation I will receive is whatever amount the

1 Court awards as a service payment and for general release of all claims as well as my share of the
2 settlement fund as a class member and as an aggrieved employee. Therefore, I believe this service
3 payment is fair as I signed a general release, so I am not only giving up my wage and hour claims, but I
4 am also giving up all claims beyond wage and hour claims I had against my former employer. Since I
5 have signed a general release for any and all claims related to my employment with Defendant, I cannot
6 pursue any other claims against Defendant while Class Members can still pursue other claims not
7 released in this Class Action.

8 18. Furthermore, the Class Representative service payment is fair and reasonable as I risk the
9 potential stigma of being a Class Representative in a Class Action labor dispute, which may affect my
10 future employment in this industry while other class members did not undertake that risk but will benefit
11 from this settlement. A Google search with my name and Defendant show that I am a Plaintiff in this
12 Class Action case.

13 19. I believe that the Class Representative service payment for me is also fair and reasonable
14 as this service payment also takes into consideration the time, effort, risks, stress, and sacrifice of signing
15 a general release of all claims over just wage and hour claims, as well as the benefit provided to all class
16 members as a result of my involvement in this litigation.

17 20. In sum, in addition to assuming the risks that go along with being a class representative
18 and named plaintiff in litigation, I believe I have also provided well over 25 hours of my time during the
19 course of this litigation to ensure a good outcome for the best interests of the Class. I believe I have been
20 diligent and acted above and beyond that which is expected of a Class Representative throughout all
21 stages of the litigation. I will continue to diligently act as the Class Representative up to and including
22 final approval of the Class Action Settlement.

23 21. It is also my opinion that the service payment is fair and reasonable because in addition to
24 the many hours spent participating in this case, I accepted the potential risk of being liable for the
25 opposing parties' costs if we were unsuccessful in this lawsuit. My attorneys told me these costs could be
26 tens of thousands of dollars or more based on the extent of formal litigation. I believed in this case and
27 was willing to be a Class Representative Plaintiff knowing the risks involved.

28 22. This litigation has also resulted in a valuable benefit to the Class Members who will

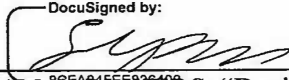
1 participate in the monetary payout of this Settlement because of my involvement.

2 23. Based on the time, risk, stress, sacrifice of signing of a general release, and the great
3 outcome of this case, I believe that the requested service payment for me is fair and reasonable.

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

7 Executed on 3/28/2024 | 2:50 PM PDT, at Riverside, California.

8 DocuSigned by:

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10 SEAN W POWERS, "Declarant"
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STATE OF CALIFORNIA

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Signature