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Attorneys for Plaintiff SEBASTIAN NICOLAS,
individually and on behalf of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

SEBASTIAN NICOLAS, individually and on
behalf of others similarly situated,

Plaintiffs,

vs.

MASTERCRAFT PAINTING, INC. and
DOES 1 through 50,

Defendants.

CASE NO.: 23CV001218

CLASS ACTION

Assigned For All Purposes To:
Judge: Hon. Jill Talley
Dept.: 27

**DECLARATION OF JUSTIAN JUSUF IN
SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT; EXHIBITS 1-2**

Final Approval Hearing:
Date: July 12, 2024
Time: 9:00 a.m.
Dept.: 27

Complaint Filed: May 8, 2023

1 I, Justian Jusuf, hereby declare:

2 1. I am an attorney duly licensed to practice in the State of California, and am counsel
3 of record for Plaintiff Sebastian Nicolas ("Plaintiff") in this action. I have personal knowledge of,
4 or am informed and believe as indicated, the following, and if called and sworn as a witness, I
5 could and would competently testify thereto.

6 2. This declaration is submitted in support of Plaintiff's motion for final approval of
7 the class action settlement upon the terms and conditions set forth in the Settlement Agreement, a
8 true and correct copy of which was submitted on December 20, 2023 as Exhibit 1 to my
9 declaration in support of preliminary approval of the settlement.

10 3. On December 20, 2023, I submitted a PDF copy of the Settlement Agreement,
11 along with the moving papers, electronically to the Labor and Workforce Development Agency
12 ("LWDA") via its website for claims brought under the Labor Code Private Attorneys General
13 ("PAGA"): [https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
14 [Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html). The LWDA has expressed no objection to the settlement of the claims for civil
15 penalties under PAGA.

16 **Background and Experience**

17 4. I have been practicing law for over 24 years, and my practice has primarily been
18 focused on representing California workers in state and federal courts. I am experienced in wage
19 and hour class action litigation. Class action cases in which I have served as lead or co-lead
20 counsel for the plaintiffs include the following: *Faris v. Bal Seal Engineering*, Orange County
21 Superior Court, No. 30-2008-00180022; *Perez v. Standard Concrete Products*, Orange County
22 Superior Court, No. 30-2008-00211820; *Gomez v. Spenuzza*, Riverside County Superior Court,
23 No. RIC 524075; *Villa v. Corona College Heights Orange And Lemon Association*, Riverside
24 Superior Court, No. RIC 519235; *Nami v. Pizza Hut*, Los Angeles County Superior Court, No.
25 BC391848; *Perez v. La Carreta Supermarkets*, Orange County Superior Court, No. 30-2010-
26 381418; *Cervantes v. PB Fasteners*, Los Angeles County Superior Court, No. BC401621;
27 *Gonzalez v. Millard Mall Services*, United States District Court for Southern District of California,
28 No. 09-CV-2076; *Mora v. Quest Diagnostics*, United States District Court for Central District of

1 California, No. 10-CV-2658; *Herrera v. Mountain Meadow Mushroom Farms, Inc.*, San Diego
2 County Superior Court, No. 37-2009-00092416; *Portillo v. Kellermeyer Building Services*,
3 Alameda County Superior Court, No. RG11558695; *Gracias v. Gruma Corporation*, Los Angeles
4 Superior Court, No. BC513727; *Sanchez v. Ralphs Grocery Company*, Riverside County Superior
5 Court, No. CIVDS1407871; *Soto v. Kingsburg Apple Packers*, Fresno County Superior Court, No.
6 16CECG03136; *Berry v. Magic Memories*, Los Angeles Superior Court, No. BC626006;
7 *Velasquez v. Environmental Landscape Solutions*, Sacramento Superior Court, No. 34-2018-
8 00235385; and *Escamilla v. Royal Landscape*, Los Angeles Superior Court, No. BC662564.

9 **The Mastercraft Painting Litigation**

10 5. On behalf of Plaintiff, on May 8, 2023, I filed a class action complaint against
11 Defendant Mastercraft Painting, Inc. (“Defendant”), alleging claims for (1) failure to pay
12 minimum wage, (2) failure to provide meal periods, (3) failure to provide rest periods, (4) failure
13 to provide accurate wage statements, (5) failure to reimburse employees for using personal cell
14 phones for work, and (6) violation of Business and Professions Code § 17200. On August 15,
15 2023, Plaintiff filed the operative First Amended Complaint, adding claims for civil penalties
16 under PAGA.

17 6. Shortly after the commencement of the Action, counsel for the respective parties
18 engaged in numerous and extensive discussions regarding the factual and legal issues involved in
19 the Action, their respective views on the strengths and weaknesses of the claims and defenses, and,
20 more importantly, *the fact that Defendant is no longer in business as of March 31, 2023*. After
21 extensive discussions among counsel for the respective Parties, the Parties eventually reached the
22 terms of a settlement to fully resolve all claims Plaintiff has asserted against the Defendants in this
23 Action.

24 7. In connection with the settlement discussions, Defendant provided time records,
25 payroll data, and other information to allow Plaintiff and his counsel to evaluate class damages
26 and engage in meaningful settlement discussions. After the key terms of the settlement were
27 reached, the Parties executed a Memorandum of Settlement. Subsequently, the Parties and their
28 counsel worked diligently until all of the terms set forth in the Settlement Agreement were

1 finalized.

2 8. I conducted extensive investigation and research pertaining to the factual and legal
3 issues involved in this action before filing the complaint. I spoke with Mr. Nicolas on numerous
4 occasions, both before and after the filing of the complaint. Mr. Nicolas provided me with
5 information regarding the Defendant's policies and practices regarding wage payments, meal and
6 rest periods, reporting of wages on wage statements, and related issues.

7 The Terms of the Settlement Are Fair and Reasonable

8 9. Under the Settlement, in exchange for the releases provided in the Settlement
9 Agreement and set forth in the Notice of Class Settlement, Defendants will pay \$85,000 to
10 establish a non-reversionary Settlement Fund to pay for claims of the Class Members who do not
11 opt out of the settlement, civil penalties under PAGA, Enhancement Award to Plaintiff, the cost of
12 the settlement administration, and reasonable attorneys' fees and costs reimbursement to Class
13 Counsel. Since Defendant is no longer in business, and to avoid collection risks, Defendant
14 agreed to, and has in fact, deposited the full \$85,000 Settlement Fund amount with the Settlement
15 Administrator on October 27, 2023, and it is being held by the Settlement Administrator in trust
16 for the benefit of this Settlement. There are 88 Class members, and they worked a total of
17 approximately 6,294 Work Weeks during the Class Period.

18 10. In my opinion, this is a fair and reasonable settlement and a favorable result for the
19 Class, in light of the sharply disputed factual and legal issues, as further discussed below, the
20 inherent risks of further litigation, the collection risks, particularly in light of the fact that
21 Defendant is no longer in business as of March of 2023, and the substantial benefits to the Class
22 under the Settlement.

23 11. Unpaid Wages Claim. Plaintiff alleges that Defendant regularly failed to provide a
24 full 30-minute meal period for each workday, but systematically deducted 30 minutes from
25 employees' daily hours worked, resulting in a failure to pay wages for all hours worked.
26 Defendant rigorously disputes these allegations, and maintains that all employees took a 30-
27 minute meal period each workday. Assuming Plaintiff prevails on the merits and on the class
28 certification issues, the total class damages for the unpaid wages claim is approximately \$100,000.

1 This is based on estimated average 10-minute unpaid wages per day, at \$19.00 average hourly rate
2 of pay, with an assumption that all employees worked five days a week. However, Defendant
3 provided information that most employees did not work five days a week, and they were mostly
4 seasonal employees.

5 12. Waiting Time Penalty/Wage Claim. The estimated maximum waiting time
6 penalty-wages under Labor Code § 203 is approximately \$410,000. This is calculated as follows:
7 88 employees x 30 days' worth of daily wage of \$152 (8 hours x \$19.00 per hour).

8 13. Meal Period Claim and Rest Period Claim. At 20% rate of violation (i.e., one
9 violation per week), the estimated class damages for the alleged meal period claim is
10 approximately \$120,000. The estimated class damages for the alleged rest period claim is another
11 \$120,000.

12 14. Wage Statement Violation Claim. Under Labor Code § 226(e), "An employee
13 suffering injury as a result of a knowing and intentional failure by an employer to comply with
14 subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the
15 initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for
16 each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
17 dollars (\$4,000)...." Based on the payroll data provided by Defendant, the maximum class
18 damages applying the formula in Labor Code § 226(e) is approximately \$92,000.

19 15. Work Expense (Cell Phone) Reimbursement. Plaintiff alleges that Defendant
20 required employees to use their personal cell phone for work-related class, and failed to reimburse
21 them for personal cell phone expenses. Defendant rigorously disputes these allegations, and
22 maintains that employees had no reason to use their personal cell phones for work-related calls.
23 Based on an estimate of \$75.00 in average cell phone bills and 5% work-related usage of personal
24 cell phones, the class damages for the expense reimbursement claim is approximately \$12,000.

25 16. PAGA Claims. The PAGA claims are derivative of the alleged Labor Code
26 violations. The payroll data from Defendant shows employees worked a total of 1,071 pay periods
27 during the PAGA Period, from May 8, 2022 (one year before the filing of the complaint and the
28 PAGA claim notice) to March 31, 2023. The theoretical total maximum civil penalties under PAGA

1 is approximately \$535,500, calculated as follows:

2 Unpaid Wages (\$100 x 1,071 total pay periods)	\$107,100
3 Meal Periods (\$100 x 1,071 total pay periods)	\$107,100
4 Rest Periods (\$100 x 1,071 total pay periods)	\$107,100
5 Wage Statements (\$100 x 1,071 total pay periods)	<u>\$107,100</u>
6 Work Expenses (\$100 x 1,071 total pay periods)	<u>\$107,100</u>
7 Total	<u><u>\$535,500</u></u>

8 17. Under the Settlement in this case, a sum of \$7,000 will be paid, out of the
9 Settlement Fund, as civil penalties under PAGA. 75% (\$5,250) of this amount will be paid to the
10 LWDA and the remaining 25% (\$1,750) will be allocated to Aggrieved Employees proportionally
11 based on their respective number of Pay Periods. The Parties arrived at this amount based on the
12 facts and circumstances of this case, in light of disputed factual and legal issues involved in the
13 claims against Defendant, and notably the fact that Defendant is no longer in business.

14 18. The \$85,000 Settlement Fund represents approximately 10% of the maximum class
15 damages of \$845,000 (\$100,000 in unpaid wages, \$401,000 in waiting time penalty-wages,
16 \$120,000 in meal period claim, \$120,000 in rest period claim, \$92,000 in wage statement violation
17 claim, and \$12,000 in work/cell phone expense reimbursement claim). The \$85,000 Settlement
18 Fund represents approximately 6% of the total maximum recovery of \$1,380,500, with the
19 theoretical maximum PAGA penalties of \$535,500 added to the \$845,000 estimated maximum
20 class damages.

21 19. In my view, this is a very good result, given the sharply disputed factual and legal
22 issues, risks and costs of prolonged further litigation without any assurance of a better result, the
23 collection risks, especially since that Defendant is no longer in business, and in light of the
24 substantial benefit available to the Class Members now under the Settlement.

The Requested Enhancement Award for Plaintiff is Reasonable

25 20. Out of the Settlement, a sum of \$5,000 in Enhancement Award will be paid to
26 Plaintiff, for his services to the Class and taking the risks of bringing this action as a class action,
27 which has resulted in substantial benefits to the Class Members. Mr. Nicolas was a dedicated and
28 hard worker. His courage to bring this lawsuit as a class action and taking the risks of bearing the

1 costs if the case was not successful has generated substantial monetary benefit to the Class
2 Members. Mr. Nicolas has been very helpful throughout the litigation. He spent a great deal of
3 time talking to me and my assistant regarding Defendant's employment practices. The requested
4 Enhancement Award is reasonable, in light of the sacrifices Plaintiff has made and the substantial
5 benefit he generated for the Class.

6 Settlement Administration

7 21. The parties have agreed to hire Phoenix Class Action Administration Solutions to
8 serve as the Settlement Administrator, and Phoenix has agreed to administer this settlement for a
9 capped fee and costs of \$6,500.

10 Lodestar Information

11 22. To date I have spent a total of no less than 51.8 hours of attorney time reasonably
12 valued at \$33,670, at the rate of \$650 per hour, purely on a contingency fee basis. As normal and
13 customary in class actions, I expect to spend many more hours after preliminary approval, and
14 even after final approval on tasks relating to monitoring the settlement administration, fielding
15 questions from the Class Members, and performing other tasks related to the settlement.

16 23. **Exhibit 1** attached hereto is a true and correct copy of my contemporaneously kept
17 time record detailing the time spent and work performed in this case. I am familiar with the
18 billing rates of attorneys with comparable experience and skill in the Southern California market.
19 I believe the hourly rate used here is fair and reasonable, in light of the specialized area of the law,
20 the class nature of the litigation, and the prevailing rates in Southern California charged by other
21 attorneys in this area of law.

22 24. The work I have performed in this case included investigating the claims, including
23 investigating the claims and potential defenses, reviewing and researching the factual and legal
24 issues involved, preparing the complaint, discussing factual and legal issues at length with defense
25 counsel, requesting and reviewing time records, payroll data, and other information from
26 Defendant for settlement discussions, analyzing the data and evaluating the range of damages,
27 engaging in extensive discussions with the defense counsel, preparing settlement agreement and
28 related documents, preparing moving papers for preliminary approval, and performing other work

1 related to the litigation and settlement of this action. I expect to spent more hours monitoring the
2 settlement administration and doing other work related to the settlement.

3 Costs and Expenses

4 25. To date, my office has spent a total of \$4,187.35 in this action. **Exhibit 2** attached
5 hereto is a true and correct copy of cost sheet for expenses incurred by my office in this action.
6 These expenses were necessary and reasonable to properly prosecute this action and obtain the
7 benefits for the Class Members under the Settlement. I anticipate incurring additional costs for the
8 filing fee, copying, and other expenses related to monitoring the settlement administration, and for
9 doing other work pertaining to monitoring and implementing the terms of the settlement.

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

12 Executed on June 12, 2024 at Huntington Beach, California.

13
14 
15 JUSTIAN JUSUF

Exhibit 1

Nicolas v. Mastercraft Painting

Date	Time	Description
2/23/2023	1.3	Review potential claims and evaluate issues
2/27/2023	1.0	Conference call with potential client
4/6/2023	0.5	Conference call with potential client
5/8/2023	5.5	Review claims and draft complaint
5/8/2023	2.0	Draft PAGA Claim Notice
5/12/2023	0.5	Draft email to defense counsel
6/12/2023	0.3	Review and reply to email from defense counsel
6/29/2023	1.0	Review issues and evaluate case strategy
6/29/2023	0.3	Call defense counsel
7/12/2023	2.0	Draft FAC to add PAGA claims
7/12/2023	0.5	Draft stip and prop order for filing FAC
7/12/2023	0.3	Draft email to defense counsel re FAC
7/20/2023	0.2	Review notice of case reassignment
7/20/2023	0.4	Edit stip and prop order for filing FAC
		Draft email to defense counsel re case reassignment and stip
7/20/2023	0.3	and prop order for filing FAC
		Review and finalize FAC and stip and proposed order for filing
7/25/2023	1.8	FAC
7/25/2023	0.3	Draft email to defense counsel
7/27/2023	0.3	Call defense counsel
8/15/2023	0.5	Draft notice of order re FAC
8/15/2023	0.5	Review and finalize FAC for filing
8/16/2023	0.2	Call defense counsel
8/18/2023	0.2	Draft email to defense counsel re documents
8/22/2023	0.2	Review and reply to email from defense counsel
8/29/2023	0.3	Draft email to counsel for defendant
8/30/2023	1.8	Review information and documents from defense counsel
8/30/2023	0.5	Draft email to expert consultant re data analysis
		Review documents from defendant, and evaluate range of
9/7/2023	1.8	class damages and maximum PAGA penalties
9/13/2023	1.5	Draft short-form settlement agreement
9/13/2023	0.3	Conference call with defense counsel
9/13/2023	0.5	Draft email to defense counsel
9/15/2023	0.5	Review and reply to email re settlement
9/20/2023	0.1	Call defense counsel
		Review email from defense counsel re settlement, and review
9/27/2023	0.7	and edit short-form agreement
9/27/2023	0.3	Draft email to defense counsel re settlement
10/5/2023	0.5	Conference call with client
10/25/2023	4.5	Draft long-form settlement agreement
10/25/2023	1.5	Draft proposed class notice of settlement
11/2/2023	0.5	Review and finalize long-form settlement agreement
11/2/2023	0.3	Email defense counsel re settlement
11/9/2023	1.0	Draft client declaration re settlement
11/9/2023	0.5	Conference call with client
12/5/2023	5.5	Draft motion for prelim approval
12/5/2023	1.0	Draft proposed prelim approval order
12/18/2023	2.0	Draft moving papers for prelim approval
3/7/2024	0.2	Review TR motion for prelim approval
		Draft email to defense counsel re TR on motion for prelim
3/7/2024	0.3	approval and CMC

Nicolas v. Mastercraft Painting

Date	Time	Description
3/12/2024	0.3	Conference call with client
		Review draft declaration of administrator re notification
6/3/2024	0.5	process etc, and provide comments
6/6/2024	1.0	Draft supplemental declaration of plaintiff
6/10/2024	2.8	Draft motion for final approval
6/10/2024	1.0	Draft proposed final approval order
hours	51.8	
rate	\$ 650.00	
amount	\$ 33,670.00	

Exhibit 2

Law Office of Justian Jusuf
Mastercraft Painting - Trans Detail By Account
All Transactions

	<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Class</u>	<u>Amount</u>
Case Expenses							
Attorney Service							
	Bill	05/15/2023	49196	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	248.45
	Bill	06/30/2023	51577	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	114.90
	Bill	07/31/2023	52946	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	106.95
	Bill	08/15/2023	53586	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	104.95
	Bill	09/12/2023	446094	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	104.95
	Bill	01/01/2024	60702 12/31/23	DDS Legal Support Systems, Inc.	Mastercraft	Mastercraft Painting	110.95
	Bill	01/01/2024	60702 12/31/23	DDS Legal Support Systems, Inc.	Mastercraft	Mastercraft Painting	104.95
	Bill	01/15/2024	61382	DDS Legal Support Systems, Inc.	Mastercraft	Mastercraft Painting	79.95
Total Attorney Service							976.05
Expert Fees							
	Bill	09/12/2023	9625	[expert consultant]	Nicolas v Mastercraft Painting	Mastercraft Painting	1,225.00
Total Expert Fees							1,225.00
Filing/Court Fees							
	Credit Card Charge	05/08/2023	953528-23	LWDA	PAGA filing fee - Mastercraft Paintir	Mastercraft Painting	75.00
	Bill	05/15/2023	49196	DDS Legal Support Systems, Inc.	Mastercraft Painting - filing fee	Mastercraft Painting	1,435.00
	Bill	07/31/2023	52946	DDS Legal Support Systems, Inc.	Mastercraft Painting	Mastercraft Painting	20.00
	Bill	01/01/2024	60702 12/31/23	DDS Legal Support Systems, Inc.	Mastercraft - court fee	Mastercraft Painting	101.50
	Credit Card Charge	03/08/2024	22408077	One Legal LLC	Mastercraft	Mastercraft Painting	18.43
Total Filing/Court Fees							1,649.93
Postage & Delivery							
	Credit Card Charge	05/08/2023		USPS	Mastercraft Painting	Mastercraft Painting	16.74
	General Journal	12/31/2023	stamps.com	Stamps.com	Postage usage 01/01/23 to 12/31/23	Mastercraft Painting	32.89
	Credit Card Charge	03/08/2024		USPS	Mastercraft	Mastercraft Painting	29.55
Total Postage & Delivery							79.18
Translation							
	Bill	10/05/2023	I-32001	Continental Interpreting Services,	document translation - Mastercraft F	Mastercraft Painting	257.19
Total Translation							257.19
Total Case Expenses							4,187.35
TOTAL							4,187.35