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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

DARAPHONE SIMMA and WENDY
SANTOS, individuals, on behalf of themselves
and on behalf of all persons similarly situated,
and on behalf of the State of California, as
private attorney general,

Plaintiff,

v.

BIOSENSE WEBSTER, INC., a California
Corporation; and DOES 1 through 50,
inclusive

Defendants.

Case No. 30-2023-01342539-CU-OE-CXC

**DECLARATION OF DARAPHONE
SIMMA IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Hearing Date:

Hearing Time:

Judge: Hon. Randall J. Sherman

Dept.: CX105

Action Filed: August 15, 2023

1 I, Daraphone Simma, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the above-
3 entitled matter. I submit this declaration in support of the Motion for Preliminary Approval of Class
4 Settlement and in support of my application for a class representative service award.

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

7 3. I worked for the defendant Biosense Webster, Inc. ("Biosense") in California from
8 December of 2021 to April of 2023, and during that time period I was classified by Biosense as a
9 non-exempt employee.

10 4. I retained my attorneys who are experienced in both class action and PAGA representative
11 action litigation and claims against employers for violations of the California Labor Code. I have
12 no personal relationship or family ties to my attorneys or any officer of the Court. I am not aware
13 of having any actual or potential conflicts of interest with another class member in this case. I am
14 not aware of any other pending matter or action asserting claims that will be extinguished or
15 adversely affected by this settlement.

16 5. I decided to file this class action lawsuit and be a plaintiff/class representative because I felt
17 that my legal rights as an employee and others like me were violated. For example, I earned several
18 types of non-discretionary bonuses in pay periods where I worked overtime, but the bonus payments
19 were not factored into my regular rate for purposes of calculating my overtime rate. I was forced to
20 work off the clock due to COVID-19 checks being administered outside in the parking lot, which
21 required me to stand in line for over five minutes while a temperature check was performed, prior
22 to clocking in. I also did not always receive compliant meal breaks as I was required to clock out
23 and continue to work – and when these violations occurred, I did not receive all break penalty
24 payments I was entitled to. Further, I was not reimbursed for the use of my personal cell phone
25 which was an essential tool necessary to perform my job duties.

26 6. I spoke to my attorneys several times and discussed how Biosense implemented its company
27 policies and procedures. I also assisted my attorneys in their investigation into my claims by
28 providing them documents and answering their questions. I reviewed the complaint before it was

1 filed and was given access to an electronic file sharing program that alerted me via email when
2 important documents were filed so that I could review them and keep up with the developments in
3 the case which I understood was one of my duties as a class representative. I could also access court
4 filings from this case on my attorney's law firm website. Also, I was informed that Biosense had
5 the right to take my deposition, and that the preparation and deposition itself could take multiple
6 days. Although my deposition was not taken, I feel I would have been adequately prepared and
7 comfortable to give testimony on my experiences.

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

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

18 9. I understood that being a part of this lawsuit involved risks. For example, my attorneys
19 explained to me that if the case went to trial and we lost, I could be held responsible to pay for all
20 or part of the attorney fees and costs paid by Biosense to defend this lawsuit. Also, I knew there
21 was a risk that future employers, if they ever find out about this lawsuit, could hold it against me or
22 downgrade me as a potential hire. As one of the named Plaintiffs in this case it would not be difficult
23 for a future employer to become aware that I sued a former employer for labor law violations.
24 Ultimately, I decided these risks were worth it and decided to fight for my rights and the rights of
25 others regardless of the risks, time and effort I spent on this case.

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

1 11. A mediation took place on June 19, 2024, with Kevin T. Barnes, a well-respected and
2 experienced mediator of wage and hour class actions. After the mediation the parties were able to
3 come to an agreement to settle the action based on a mediator's proposal. I communicated with my
4 attorneys regarding the terms of the settlement which was reached between the parties and
5 understood that I was representing absent class members and therefore wanted the best possible
6 result to be obtained for the class members and I believe a very positive result was in fact achieved
7 via settlement. I reviewed and signed the Memorandum of Understanding on July 24, 2024. When
8 the final settlement agreement is ready, I intend to review it closely before signing.

9 12. I have been actively involved with this lawsuit performing the duties described above.
10 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
11 filings and spent a significant amount of time on the issues presented during the lawsuit and in the
12 settlement process. I estimate that I spent approximately 30-40 hours working on this case up until
13 this point. I believe I have been diligent and have done what is expected of a named plaintiff and a
14 proposed class representative to date, and will continue to do so. I have and always will maintain
15 the best interest of the class members.

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

20 14. I believe I did the right thing by filing this case on behalf of the class members who, subject
21 to court approval, are in line to receive monetary payments as a result of this case and settlement.
22 This is money they may never have ever gotten if I did not pursue this action on their behalf. I feel
23 significant personal satisfaction to know that I played a role in the class members being entitled to
24 monetary payments as a result of the filing of this lawsuit. I also believe that the requested class
25 representative service award of \$10,000 from the settlement is fair compensation for the work I
26 performed and the risks I undertook.

15. As part of the settlement, it was necessary for me to sign a general release of claims I may have against Biosense. I believe the class representative service payment I have requested provides me with some compensation for this agreed release.

16. In light of all the time and effort I have spent on this case, the risk I undertook by suing a former employer, the exposure to being responsible for paying Biosense costs in the event we did not win the case, the reputational risk that future employers may hold this lawsuit against me, the general release and in light of the size of the settlement, I believe the request for \$10,000 as a class representative service payment is fair and reasonable.

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

Executed on Aug 2, 2024, at Covina, Ca.
(city, state)

Daraphone Simma
Daraphone Simma (Aug 2, 2024 16:33 PDT)

Daraphone Simma