

MESSRELIAN LAW INC.

Harout Messrelian, Esq. (SB# 272020)

hm@messrelianlaw.com

101 N. Brand Blvd., Suite 1450

Glendale, California 91203

Telephone: (818) 484-6531

Facsimile: (818) 956-1983

Attorneys for Plaintiff Simon Perez Flores

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

DIANE DE LA CRUZ, individually, on
behalf of all others similarly situated, and
on behalf of the State of California and
other aggrieved persons,

Plaintiff,

v.

JAMES NICHOLSON ENTERPRISES dba
DINSMORE LANDSCAPE COMPANY, a
California corporation; and DOES 1through
10, inclusive,

Defendants.

Case No. 23CV421709

CLASS & REPRESENTATIVE ACTION

*[Assigned for all purposes to: Hon. Theodore C.
Zayner, Dept. 19]*

**DECLARATION OF PLAINTIFF SIMON
PEREZ FLORES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

**DECLARATION OF PLAINTIFF SIMON PEREZ FLORES IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

I, SIMON PEREZ FLORES, declare and state as follows:

1. I am a resident of the State of California and am over 18 years of age. I am one of the named Plaintiffs in this action and am represented by Harout Messrelian of Messrelian Law, Inc. in this action. Except as otherwise stated, I have personal knowledge of all matters set forth in this declaration and could and would competently testify thereto if called upon to do so as a witness.

2. I first started working for Defendant James Nicholson Enterprises dba Dinsmore Landscape Company in or around 2023.

3. During my employment, I was classified as an hourly, non-exempt employee and worked as a laborer. My employment with Defendant James Nicholson Enterprises dba Dinsmore Landscape Company ended on or around September 2023.

4. I understand that the initial lawsuit I filed on January 5, 2024 in Santa Clara Superior Court case no. 24CV28669 includes a Private Attorney General Act cause of action, otherwise known as a PAGA lawsuit or PAGA claim, along with individual wage and hour claims. I understand that I am the Plaintiff and that James Nicholson Enterprises ("Dinsmore") is the Defendant. I understand that my name is on the cover of that lawsuit. I also understand that I have or will be joined as a class action representative in the present case of *Diane De La Cruz et al v. James Nicholson Enterprises dba Dinsmore Landscape Company*. As the class representative in this lawsuit, I have duties to the State of California and other employees like me who were not paid correctly for all hours worked, and not provided all required meal and rest periods, among other violations. I have fairly represented the other employees and the State throughout this lawsuit. I don't have any disagreements with the other Dinsmore employees I represent. I am not aware of any reason why I can't make the best decisions for them in this lawsuit.

4. When I agreed to hire my attorneys to file this lawsuit, I also agreed that I would be the representative of the other employees and the State of California. I agreed that the interests of the other employees and the State in the lawsuit are as important as my personal interests in

1 suing Dinsmore. I agreed that I would do what is in the best interests of the other employees and
2 the State when deciding whether or not to settle this lawsuit. I also agreed to actively participate
3 in the lawsuit. I also understand that there will only be a settlement of the lawsuit if the Court
4 allows it. I understood that being a plaintiff/class representative in this case meant that I was
5 seeking damages not only for myself but also other individuals who worked for the Defendants
6 in California. I felt that these individuals were not aware of their labor law rights and even if
7 they were they would probably be apprehensive about speaking up or even simply because of the
8 time, effort and risk involved in filing a class action lawsuit.

9 5. Although I did not keep official time records, I spent time and effort on this case.
10 The work I have done on this case includes hiring my attorneys, speaking with my attorneys by
11 phone, explaining what my employment at Dinsmore was like, explaining what my employment
12 at Dinsmore had in common with other employees who worked for Dinsmore, explaining my
13 claims to my attorneys, and communicating with my attorneys about mediation, the settlement
14 agreement and related documents.

15 6. I believe I did the right thing by filing this case on behalf of other employees who,
16 subject to court approval, are in line to receive monetary payments as a result of this case and
17 settlement. This is money they may never have ever gotten if I did not pursue this action on
18 their behalf. I feel significant personal satisfaction to know that I played a role in the other
19 employees being entitled to monetary payments as a result of the filing of this lawsuit. By
20 agreeing to settle the case in the best interest of the Class Members, I have given up the right to
21 pursue my individual claims for unpaid wages and penalties and to recover substantially more
22 for unpaid wages, interest, waiting time penalties, and pay stub penalties. In fact, I had filed a
23 lawsuit, as mentioned above, in Santa Clara County for my own individual wage and hour
24 violations as well as representative PAGA claims, however, I have instead chosen to prosecute
25 this matter on behalf of my coworkers through the class action. By pursuing the claims of all
26 Class Members, I have also rendered my own individual payment uncertain and delayed its
27 payment by several months (at the least). In light of the time I have spent on this case, the risk I
28 undertook by suing a former employer, the exposure to being responsible for paying

1 Defendant's costs in the event we did not win the case, the reputational risk that future
2 employers may hold this lawsuit against me, the fact that I gave up my right to pursue my wage
3 and hour claims on an individual basis, and in light of the size of the settlement, I believe the
4 request for \$5,000.00 as a Representative Service Payment is fair and reasonable.

5 7. I reviewed (and ultimately signed) the Class Action and PAGA Settlement
6 Agreement and my attorneys answered all the questions I had. I believe the settlement terms
7 and allocations are fair, adequate, and reasonable given the strength of the class claims and
8 Defendant's defenses.

9 8. I have no conflicts of interest, actual or potential, with any class member or the
10 Settlement Administrator (Phoenix).

11 9. I am not aware of any other pending matter or action asserting claims that will
12 be extinguished or adversely affected by the Settlement.

13 10. I am aware of the fee splitting agreement between Wilshire Law Firm and
14 Messrelian Law Inc., wherein Wilshire Law Firm will receive 85% of the fees collected in this
15 matter and Messrelian Law, Inc., will receive 15% of the fees collected in this matter. I have
16 consented to this fee split in a separate joint prosecution agreement between the law firms that
17 I have signed.

18
19 I declare under the penalty of perjury of the laws of the State of California that the
20 foregoing is true and correct to the best of my knowledge.

21
22 Executed on March 9, 2026 at _____ Glendale _____, California.

23
24 SIMON PEREZ
25 SIMON PEREZ FLORES,
26 Declarant
27
28