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Attorneys for Plaintiffs

GERARDO TORO and USMAN LOPEZ ESCOBAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

GERARDO TORO, as an individual, USMAN
LOPEZ ESCOBAR, as an individual, and on
behalf of all others similarly situated,

Plaintiff,

vs.

L.A. PROPERTIES HEFFESSE LLC, a
California limited liability company; and DOES
1 through 10,

Defendants.

Case No. 23STCV26332

*[Assigned for all purposes to the Hon. Laura A.
Seigle, Dept. SSC-17]*

**DECLARATION OF PLAINTIFF
GERARDO TORO IN SUPPORT OF
MOTION FOR APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 18, 2024

Time: 9:00 a.m.

Dept.: SSC-17

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I, GERARDO TORO, declare as follows:

1. I am an individual over the age of 18 and one of the named plaintiffs in this matter. This motion is submitted in support of approval of the proposed class action settlement (“Settlement”) in this case. I have personal knowledge of the facts stated in this declaration and could testify to them if called upon to do so.

2. I have been employed by Defendants L.A. Properties Heffesse LLC and Joseph Heffesse (Defendants”) since approximately February 5, 2001 through approximately March 10, 2023, at which time I began a medical leave of absence. During my employment, I have worked in Building Maintenance and Repair and have been classified as an exempt employee. Also, during my employment by Defendants, I, along with the other exempt employees, were required to follow their wage and hour policies and practices.

3. At all times during my employment, I was improperly classified by Defendants as an executive employee and was paid solely by way of an annual salary. I am informed that I did not qualify for the “executive” exemption as I spent none of my time directing the work of other employees; I did not have the authority to hire, fire, or discipline employees; and I did not exercise any independent judgment or discretion with respect to matters of consequence while carrying out my job duties. Further, I did not make any suggestions and recommendations as to the hiring, firing, advancement, promotion, or other change of status of other employees nor would any of my suggestions, if made, be given particular weight.

4. I routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per week, but due to Defendants' intentional and improper misclassification of me as exempt, I did not receive any overtime compensation for these hours. Upon information and belief, Defendants did not keep any record of the actual hours that I worked when I was classified as a salaried, exempt employee. I regularly worked more hours than scheduled and on average worked in excess of 10.0 to 12.0 hours per day. I worked these extra hours because Defendants required me to be on call for one week, every 6 weeks or so.

5. Defendants also failed to provide me with all required meal periods. Specifically, due to work demands imposed by Defendants, I was often unable to take a duty-free 30-minute meal

1 period before the end of the fifth hour of work as. As a result, my meal periods were often late, short,
2 missed, or otherwise unlawful.

3 6. In addition, I was not authorized and permitted to take legally required rest periods due
4 to Defendants' unlawful rest period policies and practices. Specifically, as a result of the work demands
5 imposed by Defendants, Defendants did not authorize and permit one rest period for every four hours
6 worked, or *major fraction thereof*.

7 7. I was also required to use my personal cellular phone to stay in contact with my
8 supervisor and other employees. Despite using my phone, I was not reimbursed by Defendants for any
9 reasonable portion.

10 8. Because of all of the above issues at work, I do not believe I received accurate, itemized
11 wage statements.

12 9. I have worked closely with my lawyers on this case. I answered all of their questions
13 about my employment and made myself available to speak and meet with my lawyers whenever I was
14 needed, including the entire day of the mediation on May 21, 2024 and throughout the settlement
15 process. I also prepared for and had my deposition taken prior to the mediation.

16 10. At the time of filing this lawsuit, I understood that this lawsuit had the chance to benefit
17 my former co-workers and current employees of Defendants by helping them recover money owed to
18 them. As one of the named Plaintiff, I knew that I would be taking on certain risks that the other
19 employees would not have to take on. For example, I knew that there was a risk that I could be liable
20 for Defendants' costs if we lost the case. Even though I understood that joining a lawsuit is a public
21 record and could stigmatize me and may affect my future employability, I accepted that burden for the
22 benefit of other employees of Defendants because I wanted it to pay them current and former employees
23 for all unpaid wages according to the law and face consequences for not doing so.

24 11. I have been actively involved in this case since joining this lawsuit. Without revealing
25 and/or waiving attorney-client privileged communications, I have communicated with my attorneys on
26 numerous occasions. I estimate that I have spent approximately 15-20 hours meeting with my lawyers
27 concerning the case and my responsibilities as a class representative, which included, among other
28 things, gathering various employment and non-employment related documents for use in the lawsuit,

1 reviewing documents with my lawyers and answering their questions, answering follow up questions
2 and providing guidance regarding Defendants' timekeeping, on call schedules, and other policies and
3 procedures that Defendants' required me and the misclassified employees to follow, and helping
4 develop a strategy as to what documents/information to obtain from Defendants. Further, I spent time
5 reviewing, preparing and being deposed.

6 12. In connection with the settlement in this case, I spent over 1 hour reviewing the
7 settlement agreement and discussing the agreement and approval process with my attorneys. I made
8 sure to ask my lawyers any questions I had about the terms of the settlement agreement because I wanted
9 to understand everything before I signed it.

10 13. As part of the proposed Settlement, I have also agreed to a full general release of claims
11 related to my employment with Defendants that extends beyond the release of claims applicable to
12 members of the Class as defined in the Settlement. I understand that this includes all claims, whether
13 known or unknown, under federal, state, or local law against Defendants.

14 14. I believe my claims are typical of the members of the Class because they were required
15 to follow the same policies and procedures I was required to follow when I worked for Defendants. I
16 believe 's policies and procedures were the same for all misclassified employees in California. Since
17 the same policies and procedures applies to myself and the other misclassified employees, I believe
18 they were not paid for all wages earned, did not receive all meal and rest periods, did not receive
19 accurate wage statements, and were not paid all wages owed upon separation of employment.

20 15. As far as I am aware, I have no conflicts with any of the other misclassified exempt
21 employees. I understand that as the proposed class representative, I am responsible for representing
22 the interests of all members of the class in litigation to recover money damages for the Class and I
23 consider the interests of the Class and put the interests of the Class before my own interests.

24 16. I understand that my attorneys will request that the Court award me Service Award of
25 \$10,000.00 for my service and efforts on the case. This proposed \$10,000.00 Service Award is not
26 contingent upon me supporting the proposed Settlement.
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1 I have reviewed this written statement and fully understand all of its contents. I declare under
2 penalty of perjury under the laws of the State of California that the foregoing is true and correct.
3 Executed on Jun 20, 2024, 2024 at 3:09pm, California.

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Gerardo Toro (Jun 20, 2024 15:09 PDT)

6 Gerardo Toro
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