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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

QUINTIN N. GARCIA, individually and as
representative of the State of California on
behalf of himself as an aggrieved employee,

Plaintiff,

v.

GEARLD DEEN KENT, an individual, and
DOES 1 - 20, inclusive,

Defendants.

Case No. 37-2023-00043719-CU-OE-CTL

**DECLARATION OF DANIEL V.
SANTIAGO IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION
FOR AN ORDER APPROVING THE
SETTLEMENT OF PLAINTIFF'S PAGA
CLAIMS AND DISMISSING THOSE
CLAIMS WITH PREJUDICE**

RESERVATION NUMBER: 3081716

Hearing Date: August 16, 2024

Hearing Time: 9:00 a.m.

Hearing Location: Department C-75

Complaint Filed: October 9, 2023

I, Daniel V. Santiago, declare:

1. I am a member in good standing of the State Bar of California (California Bar No. 206532). I am counsel for the Plaintiff, Quintin N. Garcia, in the above-captioned action against the Defendant, Gearld Deen Kent, currently pending in the Superior Court of the State of California, County of San Diego, Case No. 37-2023-00043719-CU-OE-CTL ("the Action").

2. I respectfully submit this declaration in support of Plaintiff's Unopposed Motion for an Order approving the settlement of Plaintiff's PAGA claims and dismissing those claims with prejudice ("Plaintiff's Unopposed Motion").

1 3. Plaintiff's claims against Defendant are set forth in Plaintiff's Complaint filed on
2 October 9, 2023, which is the operative complaint in the Action. Therein, Plaintiff alleges the
3 following causes of action against the Defendant: (1) Defendant's alleged failure to pay Plaintiff all
4 wages due and owing (including the applicable minimum wages for all hours worked and overtime
5 wages where appropriate) in violation of California Labor Code ("Labor Code") §§204(a), 218.6,
6 510(a), 1194(a) and 1197 and IWC Wage Order No. 14-2001, §4(A) and 4(B) (First Cause of
7 Action); (b) Defendant's alleged failure to provide Plaintiff with itemized wage statements
8 accurately identifying, *inter alia*, his total hours worked and regular rates of pay in violation of
9 Labor Code §226(a) (Second Cause of Action); (c) Defendant's alleged failure to pay Plaintiff all
10 wages due upon termination of his employment in violation of Labor Code §§201-203 (Third Cause
11 of Action); (d) violations Of California Business & Professions Code §17200 et seq. (Fourth Cause
12 of Action); and (e) PAGA penalties under Labor Code §2698 et seq. (Fifth Cause of Action).

13 4. Defendant denies the material allegations in Plaintiff's Complaint. Defendant further
14 denies any violation of the Labor Code or IWC Wage Order No. 14-2001 or any other wrongdoing.

15 5. If the Court grants the relief requested in Plaintiff's Unopposed Motion, Plaintiff
16 would respectfully request that the Court vacate all dates on its calendar relating to the Action.

17 6. The Initial Case Management Conference is set for April 12, 2024, at 10:30 a.m. in
18 Department C-75. This case is not currently set for trial.

19 7. The parties, by and through their respective counsel, have agreed to resolve all of the
20 Plaintiff's claims against the Defendant in the Action. To that end, the parties have executed a
21 Confidential Settlement Agreement and Mutual Release of All Claims ("Settlement Agreement")
22 reflecting the settlements of Plaintiff's PAGA claims against the Defendant for \$1,650 and
23 Plaintiff's non-PAGA claims against the Defendant for \$36,000, for a Gross Settlement Amount of
24 \$37,650.

25 8. More specifically, the parties' Settlement Agreement requires the Gross Settlement
26 Amount of \$37,650 to be distributed as follows: (a) \$1,650 is to be paid by Defendant in connection
27 with the settlement of the Plaintiff's PAGA claims against the Defendant (more specifically, that
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1 sum consists of \$1,237.50 to be paid to the Labor and Workforce Development Agency ["LWDA"]
2 and \$412.50 to be paid to the Plaintiff in connection with the settlement of Plaintiff's PAGA claims
3 against the Defendant); and (b) \$36,000 is to be paid by Defendant in connection with the
4 settlement of the Plaintiff's non-PAGA claims against the Defendant (more specifically, that sum
5 consists of: \$6,000, less withholdings and deductions, to be paid to the Plaintiff in settlement of her
6 wage-related claims against the Defendant; \$12,000, without any withholding or deductions, to be
7 paid to the Plaintiff in settlement of his non-wage-related claims against the Defendant; and \$18,000
8 to be paid to Plaintiff's counsel as attorney's fees in connection with the prosecution of Plaintiff's
9 non-PAGA claims against the Defendant).

10 9. The parties' Settlement Agreement is subject to and expressly conditioned upon the
11 Court's entry of an Order: (1) approving the settlement of Plaintiff's PAGA claims against the
12 Defendant and dismissing those claims with prejudice; and (2) dismissing Plaintiff's non-PAGA
13 claims against the Defendant with prejudice.

14 10. The proposed settlement of Plaintiff's PAGA claims against the Defendant is fair
15 and reasonable in light of the following factors, among others: (a) I have conducted sufficient
16 investigation of the facts underlying Plaintiff's claims that support my conclusion that the proposed
17 settlement of Plaintiff's PAGA claims is fair and reasonable (such investigation has included, *inter*
18 *alia*, engaging in numerous, detailed conversations with Plaintiff regarding the underlying facts and
19 the status of the parties' settlement discussions); (b) any settlement, including the proposed
20 settlement in the Action, should take into consideration the time, inconvenience and uncertainty of
21 trial that are avoided by the settlement; (c) under Labor Code §2699(i), allegedly aggrieved
22 employees like Plaintiff are entitled to receive only 25% of any PAGA settlement with the
23 remaining 75% to be paid to the LWDA; (d) as explained in greater detail in ¶¶11-12 below, the
24 proposed settlement of Plaintiff's PAGA claims for \$1,650 exceeds my evaluation of a fair and
25 reasonable settlement of those PAGA claims; and (e) as explained in greater detail in ¶¶16-21
26 below, my background and experience support the conclusion that the proposed settlement of
27 Plaintiff's PAGA claims is fair and reasonable.

11. Plaintiff's damages models for his representative PAGA claims assume the following: (a) liability period for Mr. Garcia's claims for PAGA penalties: 10/9/22 (1 year preceding the date of filing of Mr. Garcia's Complaint) – 9/21/23 (date of termination of Mr. Garcia's employment) not including the approximately 4-month time period in late May to late September 2023 when he was physically disabled and unable to work (during this timeframe, there were approximately 17 pay periods); (b) regular rate of pay: \$12.06 per hour (\$96.48 flat daily rate / 8 hours per day); and (c) pay period: bi-weekly (i.e., every two weeks). Based upon the foregoing assumptions, I estimate that the total PAGA penalties potentially recoverable are \$6,194.40 calculated as follows:

Type Of Claim	Amount	Description
PAGA Penalty For Unpaid Wages	\$1,650	\$50 for the first pay period + \$100 for each of the 16 subsequent pay periods = \$1,650
PAGA Penalty For Itemized Wage Statement Violations	\$1,650	\$50 for the first pay period + \$100 for each of the 16 subsequent pay periods = \$1,650
PAGA Penalty For Waiting Time Penalty Under Labor Code §203	\$2,894.40	\$12.06 per hour X 8 hours per day X 30 days = \$2,894.40
	\$6,194.40	

12. For settlement purposes, it is reasonable to discount Plaintiff's estimate of the civil penalties potentially recoverable with regard to her PAGA claims (\$6,194.40) by 50% to reflect the benefits of avoiding the delays associated with continued litigation and by another 50% to reflect the uncertainty of obtaining a favorable verdict with regard to those PAGA claims at trial. (During the course of the parties' settlement discussions, Defendant's counsel repeatedly contended that stacking of Plaintiff's PAGA claims is not permissible under California law and that Plaintiff's damages model with regard to the PAGA penalty for any violation of Labor Code §203 is excessive.) The resulting figure is \$1,548.60 which I contend would be a fair and reasonable settlement of Plaintiff's PAGA claims. The proposed settlement of Plaintiff's individual PAGA claims for \$1,650 exceeds that figure.

13. I respectfully submit that Plaintiff's Unopposed Motion is further warranted in light of the following factors, among others: (1) the parties are prepared to consummate their Settlement

1 Agreement immediately after the Court approves of the settlement of Plaintiff's PAGA claims and
2 dismisses those claims with prejudice; and (2) there is no just reason to delay the consummation of
3 the parties' Settlement Agreement.

4 14. Plaintiff is the only aggrieved employee affected by his PAGA claims against the
5 Defendant.

6 15. Notice of the proposed settlement of Plaintiff's PAGA claims and the dismissal of
7 those claims as described herein is not required to be provided to any other employee of Defendant.

8 16. I respectfully submit that my background and experience (summarized below)
9 support my conclusion that the proposed settlement of Plaintiff's PAGA claims is fair and
10 reasonable.

11 17. As to my educational background, I am a graduate of The University of Michigan
12 Law School in Ann Arbor, Michigan (J.D. in 1996) and Northwestern University in Evanston,
13 Illinois (double-majors in Economics and Political Science in 1993).

14 18. As to my professional background, I have more than 25 years of experience handling
15 a wide variety of complex civil litigation. Additionally, I have substantial experience handling
16 wage and hour litigation including wage and hour class actions, as described below.

17 19. Before I established the Law Offices of Daniel V. Santiago, P.C. in 2012, I practiced
18 law for 10 years with Kaplan, Massamillo & Andrews, LLC, one of the leading aviation litigation
19 firms in the world. Previously, I practiced law with the litigation departments of Sullivan, Hill,
20 Lewin, Rez & Engel ("Sullivan Hill") in San Diego, California and Skadden, Arps, Slate, Meagher
21 & Flom ("Skadden Arps") in Los Angeles, California.

22 20. I have had substantial experience prosecuting class actions including, *inter alia*:
23 *Brian R. Maston et al. v. Prima Pizza, Inc. et al.*, Los Angeles County Superior Court, Case No.
24 BC508046 (wage and hour class action settlement – final approval granted); *Neerav Jadeja et al. v.*
25 *American Para Professional Systems, Inc. et al.*, San Diego Superior Court, Case No. 37-2013-
26 00040592-CU-MT-CTL (identity theft class action settlement – final approval granted); *Anyah M.*
27 *Jagne v. Williams-Sonoma, Inc.*, Sacramento Superior Court, Case No. 34-2017-00212574 (wage
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1 and hour class action settlement – final approval granted); *Christopher L. Battle v. Fastrucking.com,*
2 *LLC*, San Diego Superior Court, Case No. 37-2014-00020611-CU-OE-CTL (wage and hour class
3 action settlement – final approval granted); *Alejandro Hernandez v. Golden State FC, LLC*, San
4 Diego Superior Court, Case No. 37-2018-00025550-CU-OE-CTL (wage and hour class action
5 settlement – final approval granted); and *James Avilez v. Gorlitz, Sewer & Drain, Inc.*, Los Angeles
6 Superior Court, Case No. 20STCV21169 (wage and hour class action settlement – final approval
7 granted).

8 21. I have had substantial experience in the following cases for which courts have issued
9 reported decisions or orders: *Spanair S.A. v. McDonnell Douglas Corp.*, 172 Cal.App.4th 348 (2nd
10 Dist. 2009); *International Ins. Agency Services, LLC v. Revios Reinsurance U.S., Inc.*, 2007 WL
11 951943 (N.D.Ill., March 27, 2007); *Lie v. Boeing Co.*, 311 F.Supp.2d 725 (N.D.Ill. 2004); *Lie v.*
12 *Boeing Co.*, 2004 WL 1462451 (N.D.Ill., June 29, 2004); and *Bax Global, Inc. v. Federal Express*
13 *Corp.*, 2004 WL 1447940 (D.Minn., May 26, 2004).

14 22. I submitted copies of Plaintiff's Unopposed Motion and all related papers to the
15 LWDA (via online filing with the LWDA) immediately before filing those papers in the San Diego
16 County Superior Court.

17 23. A true and correct copy of the email I received from the DIR PAGA Unit on behalf
18 of the LWDA confirming my submission of Plaintiff's Unopposed Motion and all related papers to
19 the LWDA is attached hereto as Exhibit 1.

20 24. I do not anticipate receiving any objection or other communication from the LWDA
21 regarding the relief requested in Plaintiff's Unopposed Motion.

22 25. I will advise the Court whether I have received any objection or other
23 communication from the LWDA during the hearing on Plaintiff's Unopposed Motion.

24 26. The parties' Stipulation filed concurrently herewith under separate cover calls for the
25 Court to grant the relief requested in Plaintiff's Unopposed Motion.

1 I declare under penalty of perjury under the laws of California that the foregoing is true and
2 correct, and that this declaration was executed on January 26, 2024.

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4 Daniel V. Santiago
5 Attorney for Plaintiff, Quintin N. Garcia
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