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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

JOHN WHEELER, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

NEXSTAR BROADCASTING, INC., a
Corporation; NEXSTAR BROADCASTING
GROUP, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. CGC-22-600499

**DECLARATION OF JOHN
WHEELER IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: February 15, 2024
Hearing Time: 9:30 a.m.

Judge: Hon. Richard B. Ulmer
Dept: 302

Action Filed: July 1, 2022
Trial Date: Not Set

1 I, John Wheeler, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Preliminary
4 Approval of Class Settlement and in support of my application for a Class Representative
5 Service Payment.
6

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

9 3. I worked as a maintenance engineer in California for the Defendants (“Nexstar”) from
10 October of 2015 to October of 2021. I was classified by Nexstar as a non-exempt employee
11 during that time period.
12

13 4. I retained my attorneys who are experienced in both class action and PAGA
14 representative action litigation and claims against employers for violations of the California
15 Labor Code. I have no personal relationship or family ties to my attorneys or any officer of the
16 Court. I am not aware of having any actual or potential conflicts of interest with another class
17 member in this case nor am I aware of having any actual or potential conflicts of interest with
18 ILYM Group, Inc., the settlement administrator. Other than the previously disclosed matter of
19 *James Mann v. KTLA, Inc. et al.*, Los Angeles County Superior Court Case No. 23STCV08875
20 which asserts claims that are subsumed by this settlement, I am not aware of any other pending
21 matter or action asserting claims that will be extinguished or adversely affected by this
22 settlement.
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24 5. I decided to pursue this class action lawsuit and be a plaintiff/class representative
25 because I felt that my legal rights as an employee and others like me were violated. For example,
26 due in part to chronic understaffing, I often performed work off the clock without any
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1 compensation. I also did not receive compliant meal and rest breaks on a regular basis which
2 were either late, interrupted or missed entirely. When these meal and rest break violations
3 occurred, I did not always receive the proper premium penalty wages. In addition, my wage
4 statements were inaccurate for various reasons such as not stating the correct total amount of
5 hours I worked and I also wasn't reimbursed for work-related expenses I incurred such as using
6 my personal cell phone and laptop for work-related issues.

8 6. I spoke to my attorneys several times and discussed how Nexstar implemented
9 its company policies and procedures. I also assisted my attorneys in their investigation into my
10 claims by providing them documents and answering their questions. I reviewed the complaint
11 before it was filed and after it was filed I was given access to an electronic file sharing program
12 that alerted me via email when important documents were filed so that I could review them and
13 keep up with the developments in the case which I understood was one of my duties as a class
14 representative. I would also contact my attorneys from time to time if I had any questions about
15 the case.

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

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

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

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

16 11. A mediation took place on June 2, 2023 with David A. Rotman, a well-respected
17 and experienced mediator of wage and hour class actions. A second mediation took place on
18 June 30, 2023 with Mr. Rotman. After the second mediation the parties were able to reach an
19 agreement to settle the action based on a mediator's proposal. I communicated with my
20 attorneys regarding the terms of the settlement which was reached between the parties and
21 understood that I was representing absent class members and therefore wanted the best possible
22 result to be obtained for the class members and I believe a very positive result was in fact
23 achieved via settlement. I reviewed and signed the Memorandum of Understanding on August 8,
24 2023 and when the final settlement papers were ready, I closely reviewed the Settlement
25 Agreement which I signed on December 1, 2023.

1 12. I have been actively involved with this lawsuit performing the duties described above.
2 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
3 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
4 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
5 up until this point. I believe I have been diligent and have done what is expected of a named
6 plaintiff and a proposed class representative to date, and will continue to do so. I have and
7 always will maintain the best interest of the class members.
8

9 13. My attorneys explained to me that the settlement process involves a two-step
10 review by the Court to determine whether the settlement is fair before approving the settlement.
11 I know this process also involves notifying all class members of the settlement terms and of their
12 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
13 settlement.
14

15 14. I believe I did the right thing by filing this case on behalf of the class members 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 their
18 behalf. I feel significant personal satisfaction to know that I played a role in the class members
19 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
20 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
21 compensation for the work I performed and the risks I undertook.
22

23 15. As part of the settlement it was necessary for me to sign a general release of
24 claims I may have against Nexstar. I believe the Class Representative Service Payment I have
25 requested provides me with some compensation for this agreed release.
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27 16. In light of all the time and effort I have spent on this case, the risk I undertook by
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1 suing a former employer, the exposure to being responsible for paying Nexstar's costs in the
2 event we did not win the case, the reputational risk that future employers may hold this lawsuit
3 against me, the general release, and in light of the size of the settlement, I believe the request for
4 \$10,000 as a Class Representative service payment is fair and reasonable.

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

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8 Executed on Jan 4, 2024, at San Francisco, CA.
(city, state)

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John Wheeler