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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

NICHOLAS KALUZA, an individual, on)
behalf of himself and on behalf of all persons)
similarly situated, and on behalf of the State)
of California, as a private attorney general,

Plaintiffs,

vs.

BOEING AEROSPACE OPERATIONS,
INC., a Delaware Corporation; and DOES 1
through 50, Inclusive,

Defendants.

Case No. 37-2022-00004602-CU-OE-CTL
[Consolidated with Case No. 37-2022-
00004879-CU-OE-CTL]

**DECLARATION OF NICHOLAS
KALUZA IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: March 4, 2024

Hearing Time: 8:30 a.m.

Judge: Hon. Eddie C. Sturgeon

Dept: 67

Date Filed: February 4, 2022

Trial Date: Not set

1 I, Nicholas Kaluza, 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 for the defendant (“Boeing Aerospace”) in California from April of 2021 to
10 January of 2022 and during that time period I was classified by Boeing Aerospace as a non-
11 exempt employee.
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 Simpluris, the settlement administrator. I am not aware of any other pending matter or action
19 asserting claims that will be extinguished or adversely affected by this settlement.
20

21 5. I decided to pursue this class action lawsuit and be a plaintiff/class representative
22 because I felt that my legal rights as an employee and others like me were violated. For example,
23 Boeing Aerospace’s timekeeping software at the jobsite I worked at was called ETS and
24 could only be accessed via two laptops that often had technical issues making it difficult to clock
25 in and out. In response, team leaders would manually enter the clock in/out time of employees
26 such as myself but they did not enter the actual time worked but rather shift times. This process
27

1 was inaccurate and did not include all the time I worked, such as when me and others started
2 working before our shift time began and stayed after our shift ended to complete work and to
3 participate in “end of day” meetings. I was not paid any wages for this off the clock work. The
4 same issue with the timekeeping system applied to meal periods where my team lead would enter
5 that I took compliant thirty minute meal periods but in reality I often took meal periods after the
6 5th hour or not at all. My meal periods were regularly less than 30 minutes and/or interrupted and
7 I did not receive the meal period premium payments I should have received for these violations. I
8 was also often unable to take compliant rest breaks and also did not receive the rest break
9 premium payments I should have received for these violations.
10

11 6. I spoke to my attorneys several times and discussed how Boeing Aerospace implemented
12 its company policies and procedures. I also assisted my attorneys in their investigation into my
13 claims by providing them documents and answering their questions. I reviewed the complaint
14 before it was filed and after it was filed I was given access to an electronic file sharing program
15 that alerted me via email when important documents were filed so that I could review them and
16 keep up with the developments in the case which I understood was one of my duties as a class
17 representative. Also, I prepared for and had my deposition taken by one of the attorneys for
18 Boeing Aerospace on April 7, 2023.
19

20 7. Even though this action is in the process of settling, I was and remain prepared to
21 perform all the duties of a class representative. I understand that as a class representative I have
22 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
23 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
24 benefit of the class members and surrender any right to compromise the group action for an
25 individual gain.
26

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

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

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

11. A mediation took place on April 12, 2023 with Tripper Ortman, a well-respected and experienced mediator of wage and hour class actions. After the mediation the parties were able to reach an agreement to settle the action based on a mediator's proposal. I communicated with my attorneys regarding the terms of the settlement which was reached between the parties and understood that I was representing absent class members and therefore wanted the best possible result to be obtained for the class members and I believe a very positive result was in

1 fact achieved via settlement.

2 12. I have been actively involved with this lawsuit performing the duties described above.
3 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
4 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
5 the settlement process. I also prepared for and was deposed by one of the attorneys for Boeing
6 Aerospace. I estimate that I spent approximately 40-50 hours working on this case up until this
7 point. I believe I have been diligent and have done what is expected of a named plaintiff and a
8 proposed class representative to date, and will continue to do so. I have and always will maintain
9 the best interest of the class members.
10

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

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

25 15. As part of the settlement it was necessary for me to sign a general release of claims I
26

1 may have against Boeing Aerospace. I believe the Class Representative Service Payment I have
2 requested provides me with some compensation for this agreed release.

3
4 16. In light of all the time and effort I have spent on this case, the risk I undertook by
5 suing a former employer, the exposure to being responsible for paying Boeing Aerospace's costs
6 in the event we did not win the case, the reputational risk that future employers may hold this
7 lawsuit against me, the general release and in light of the size of the settlement, I believe the
8 request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

11 Executed on Feb 4, 2024, at Valley Center, Ca
12 (city, state)

13 
14 Nicholas Kaluza (Feb 4, 2024 07:27 PST)
15 Nicholas Kaluza
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