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Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

JAMES E. AGUILAR, an individual;
PAMELA CAZARES, an individual, on
behalf of themselves and on behalf of all
persons similarly situated,

Plaintiffs,

vs.

T & K, L.P., a California Limited Partnership;
and DOES 1-50, Inclusive.

Defendants.

Case No. 21CV384674

**DECLARATION OF JAMES E. AGUILAR
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Hearing Date: October 26, 2023

Hearing Time: 1:30 p.m.

Department: 1

Trial Date: None

Action Filed: July 23, 2021

1 I, JAMES E. AGUILAR, declare as follows:

2 1. I am over the age of eighteen, a California resident, Plaintiff and Proposed Class
3 Representative in the above-entitled matter. I submit this declaration in support of Plaintiffs' Motion
4 for Final Approval of Class Action and PAGA Settlement and in support of Plaintiffs' Motion for Class
5 Counsel Attorneys' Fees and Expenses and Service Awards. I have personal knowledge of all the facts
6 stated herein. I could and would competently testify under oath to these facts in court if requested to do
7 so.

8 2. I retained Class Counsel in March of 2021 and filed the lawsuit in July of 2021. I filed
9 the case on behalf of myself and a class of all non-exempt employees of Defendant in California from
10 July 23, 2017 to October 29, 2022.

11 3. I worked for Defendant as a non-exempt employee in California from approximately
12 August 2020 to March 2021. At all times during my employment with Defendant, I was entitled to
13 legally mandated meal and rest periods, minimum wages, and overtime compensation.

14 4. I filed the case because I believed my rights as an employee were violated by Defendant
15 and also the rights of other employees that worked for Defendant. Among other claims, I believe
16 Defendant failed to pay for all time worked, failed to provide compliant meal and rest periods, failed to
17 furnish accurate itemized wage statements, failed to reimburse for required business expenses, and failed
18 to pay all wages when due.

19 5. Before I initiated the case as a plaintiff and Class Representative, I spoke at length with
20 my attorneys. We discussed my work experience and how company policies were applied to me and
21 other employees. I provided the attorneys with documents they requested. We reviewed the documents
22 together and asked and answered many questions regarding my experience working for Defendant, the
23 litigation process, and about class actions generally.

24 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
25 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
26 than merely seeking my individual claims substantially increased the risk to me. Those risks included
27 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by

1 the attorneys and the Court because I needed to prove that I was an adequate class representative.
2 Further, I understood that I would lose some autonomy over my individual claims that I could not make
3 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
4 of the Settlement Class in mind.

5 7. I also understood that pursuing this litigation created a very public record of my grievances
6 with Defendant which produced the risk that a future employer could hold it against me that I sued a
7 former employer.

8 8. I also knew that I was making a sacrifice in that I could have pursued my claims only on
9 an individual basis, likely obtaining a recovery greater than the portion of the class settlement I stand to
10 receive from this settlement. My attorneys explained to me that the net settlement value of my individual
11 claims may be greater than my ultimate recovery from the net class settlement amount.

12 9. Notwithstanding these risks and sacrifices, I decided to go through with the case because
13 I believed violations occurred and most employees would not know what their rights are and even if
14 they did, they would be apprehensive to file a lawsuit against their employer for fear of retaliation.

15 10. During the lawsuit I communicated on a regular basis with my attorneys. I reviewed status
16 updates from my attorneys and court filings on a regular basis, and spoke to my attorneys on the phone,
17 because I wanted to keep up with developments in the case which I understood was one of my duties as
18 a class representative.

19 11. **Review and Approval of Settlement:** A mediation was held on August 29, 2022. Even
20 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
21 them regarding the mediation before it took place, as well as during the mediation itself. I was very
22 satisfied with the terms of the settlement that was agreed to by the parties. I reviewed and signed the
23 Memorandum of Understanding on September 7, 2022, and when the settlement papers were ready, I
24 again spoke with my attorneys and reviewed the settlement agreement which I signed on February 15,
25 2023.

26 12. **Broad General Release:** I understand that the Service Award is intended, in part, to
27 compensate me for my release of the Released Class Claims. Additionally, unlike the other Class

1 Members, I also granted Defendant a broad general release and waiver of claims pursuant to California
2 Civil Code section 1542.

3 13. **Participation:** Since I retained Class Counsel approximately thirty-one months ago, I
4 have been actively involved with this class action lawsuit performing the duties described above. While
5 I did not keep formal time records, I was in regular contact with my attorneys, attended hearings,
6 reviewed important court filings, and spent considerable time on the issues presented during the
7 litigation and in the settlement process. I estimate that I spent approximately 20-25 hours working on
8 this case.

9 14. Also, my attorneys explained to me that the settlement process involved a two-step review
10 by the Court to determine whether the settlement was fair before ordering that the settlement be funded
11 and paid. I knew this process also involved notifying all class members of the settlement terms and of
12 their rights to make a claim for their settlement share, to opt out of the settlement or to object to the
13 settlement.

14 15. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who
15 now stand to receive substantial monetary payments as a result of this case and settlement. I also believe
16 that the requested Service Award in the amount of \$10,000.00 from the settlement is fair compensation
17 for the (1) the broad general release I executed, (2) the work I performed, (3) the sacrifices made not
18 pursuing this case individually, and (4) the risks I undertook.

19 16. In light of all the time and effort I have spent on this case, the sacrifice I have made, the
20 risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's
21 costs in the event we did not win the case, and in light of the size of the settlement, I believe the request
22 for \$10,000.00 as a service award is fair and reasonable.

23 17. Further, I support my attorneys' application for Class Counsel Fee and Attorneys' Fees
24 and Expenses in the amount of \$691,666.66, comprised of \$666,666.66 for attorneys' fees (one-third of
25 the Maximum Settlement Amount) and up to \$25,000 for reimbursement of actually incurred litigation
26 expenses.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct. Executed on Oct 2, 2023, at Olivehurst, California.

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By: 
James Aguilar (Oct 2, 2023 11:30 PDT)
JAMES E. AGUILAR