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Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

PEDRO RODRIGUEZ and JOSE GARCIA,
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

v.

FERMA GREENBOX, INC., a California
Corporation; FERMA CORPORATION, a
California Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. RG21101104

**DECLARATION OF JOSE GARCIA IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: July 28, 2023

Time: 9:00 a.m.

Judge: Hon. Evelio Grillo

Dept.: 21

Reservation ID: 131351394793

1 I, JOSE GARCIA, 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 Plaintiff's Motion
4 for Final Approval of Class Action and PAGA Settlement and in support of Plaintiff's Motion for Class
5 Counsel Award and Class Representative Service Award. 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 November of 2020 and filed the lawsuit in July of 2021. I
9 filed the case on behalf of myself and a class of truck drivers who are or previously were employed by
10 Defendant and performed work in California.

11 3. I have worked for Defendant as an hourly, non-exempt driver in California since 2016.

12 4. I filed the case because I believed my rights as an employee were violated by Defendant
13 and also the rights of other employees that worked for Defendant. Among other claims, I believe
14 Defendant failed to provide compliant meal and rest periods, failed to pay for all hours worked, and
15 failed to reimburse mandatory business expenses.

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

21 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
22 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
23 than merely seeking my individual claims substantially increased the risk to me. Those risks included
24 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
25 I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by
26 the attorneys and the Court because I needed to prove that I was an adequate class representative.
27 Further, I understood that I would lose some autonomy over my individual claims that I could not make
28

1 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
2 of the Settlement Class in mind.

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

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

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

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

17 11. On October 18, 2021, I was deposed by Defendants' attorneys and provided testimony.
18 Thereafter, I reviewed the deposition transcript and approved it. The preparation time, the time it took
19 for my deposition, and the time it took for me to review the transcript, all totaled approximately 30
20 hours.

21 12. **Review and Approval of Settlement:** A mediation was held on August 1, 2022. Even
22 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
23 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
24 with my attorneys after the mediation and discussed the mediator's proposal which was ultimately
25 accepted. I was very satisfied with the terms of the settlement that was agreed to by the parties. I
26 reviewed and signed the Memorandum of Understanding on the same day, and when the settlement
27 papers were ready, I again spoke with my attorneys and reviewed the settlement agreement which I
28 signed on November 10, 2022.

1 13. **Broad General Release:** I understand that the Class Representative Service Award is
2 intended, in part, to compensate me for my release of the Released Class Claims. Additionally, unlike
3 the other Class Members, I also granted Defendant a broad general release and waiver of claims pursuant
4 to California Civil Code section 1542 and released Defendant from any and all claims, whether known
5 or unknown, which exist or may exist on her behalf as of the date of the Agreement.

6 14. **Participation:** Since I retained Class Counsel approximately thirty-two months ago, I
7 have been actively involved with this class action lawsuit performing the duties described above. While
8 I did not keep formal time records, I was in regular contact with my attorneys, attended hearings,
9 reviewed important court filings, and spent considerable time on the issues presented during the
10 litigation and in the settlement process. I estimate that I spent approximately 55-65 hours working on
11 this case.

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

17 16. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who
18 now stand to receive substantial monetary payments as a result of this case and settlement. I also believe
19 that the requested Class Representative Service Award in the amount of \$7,500 from the settlement is
20 fair compensation for the (1) the broad general release I executed, (2) the work I performed, (3) the
21 sacrifices made not pursuing this case individually, and (4) the risks I undertook.

22 17. In light of all the time and effort I have spent on this case, the sacrifice I have made, the
23 risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's
24 costs in the event we did not win the case, and in light of the size of the settlement, I believe the request
25 for \$7,500 as a service award is fair and reasonable.

26 18. Further, I support my attorneys' application for a Class Counsel Award in the amount of
27 \$91,666.00, comprised of \$66,666.00 for attorneys' fees (one-third of the Total Settlement Amount) and
28 up to \$25,000 for reimbursement of actually incurred litigation expenses.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on Jun 22, 2023, at East Palo Alto (Location/City), California.

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4 By: 
By: Jose Garcia (Jun 22, 2023 13:22 PDT)

5 JOSE GARCIA
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