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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

TAMIKA R. THOMAS, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

CENTER FOR ELDER'S INDEPENDENCE,
a California corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 22CV024221

**DECLARATION OF TAMIKA R. THOMAS
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: December 29, 2023

Time: 9:00 a.m.

Reservation ID: 628376307502

Judge: Hon. Evelio Grillo

Dept.: 21

1 I, TAMIKA R. THOMAS, declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am the named Plaintiff in the above
4 wage and hour class and representative action filed against CENTER FOR ELDER'S
5 INDEPENDENCE (hereinafter "Defendant").

6 2. This declaration is being submitted in support of Plaintiff's Motion for Preliminary
7 Approval of Class Action and PAGA Settlement.

8 3. I believe that I am, have been and will continue to represent the interests of the class
9 fairly and adequately. I have claims that are typical of the claims of the Class Members that I am
10 seeking to represent.

11 4. I worked for Defendant as a non-exempt employee in California between May of 2007
12 to approximately October of 2021. At all times during my employment, I earned an hourly wage,
13 including overtime, and performance-based incentive compensation, and was entitled to legally
14 compliant meal and/or rest periods. Throughout my employment, I was subject to Defendant's written
15 policies and procedures contained in, among other documents, the "Center for Elders' Independence
16 Employee Handbook."

17 5. Generally, my lawsuit claims that Defendant failed to pay for all time worked, failed to
18 provide compliant meal and rest periods, failed to pay overtime, meal premiums, and sick pay at the
19 correct regular rate of pay, failed to reimburse for mandatory business expenses, failed to furnish
20 accurate itemized wage statements, and failed to pay all wages when due.

21 6. I believe that my claims are typical of the claims of the Class Members that I am seeking
22 to represent because I was subject to the same alleged unlawful employment policies and practices at
23 issue in this action, including but not limited to, Defendant's failure to provide compliant meal and
24 rest periods, failure to pay for all hours worked, and failure to pay all wages when due. Factually,
25 Defendant's policies and practices apply class wide, and Defendant's liability can be determined by
26 facts common to all members of the Class.

7. Further, there is no conflict between my interests and the interests of the class that I am seeking to represent. My interests are coextensive with the interests of the Class. I allege that I was injured by the same company-wide policies and practices to which the proposed Class was subjected and seek the same relief. I have already demonstrated my ability to advocate for the interests of the Class by initiating this litigation, participating in mediation, and evaluating the proposed settlement to assure that it is fair.

8. I understood at the time that I filed this action, that as a Class Representative, I owed a duty to the putative class members to faithfully prosecute the class and PAGA action with the class members' best interests at the forefront of every decision. I understood that I could not make any decision in this action for the sole benefit of my personal interest. As such, at all times during the mediation and settlement negotiations, I prioritized the claims of the class, and did not engage in settlement negotiations of my individual claims until the class action was tentatively settled.

9. I believe that the proposed settlement before the Court is fair, reasonable and adequate, and made in the best interest of the Settlement Class Members. Consequently, I respectfully ask the Court to grant preliminary approval of the Settlement and all of its terms.

A. Plaintiff's Individual Claims

10. Throughout my employment with Defendant and at the time of my termination, I was treated differently and unfairly by Defendant and its agents, all in retaliation and discrimination against me because of my disability.

11. In or around November of 2020, I was diagnosed with severe gastroesophageal reflux disease (“GERD”). GERD is a condition in which the stomach contents move up into the esophagus causing frequent or severe symptoms and, in some cases, damage to the esophagus, pharynx, and/or respiratory tract.

12. In or around February of 2020, as a result of my GERD symptoms, I requested, and was granted, an accommodation to work a hybrid schedule, wherein I worked in office during the morning hours. After lunch, I would work the remainder of the day remotely from home when my symptoms

1 of GERD intensified. I worked this hybrid schedule for approximately one and a half years before my
2 termination.

3 13. In or around March of 2021, Defendant informed me that I would be required to return
4 to work in-office. However, I am aware that many of Defendant's other employees were allowed to
5 continue remote work at home, especially those who had contracted Covid-19. As a result, I requested
6 a reasonable accommodation from Defendant and requested that I be allowed to continue working
7 from home, as I had been doing for over a year.

8 14. In or around October of 2021, I was scheduled for a medical procedure for purposes of
9 determining the cause of inflammation I was experiencing at the time. On or around October 4, 2023,
10 I submitted a doctor's note indicating that I was placed on modified activity at work and at home
11 pursuant to my hybrid schedule. Defendant's Benefits Lead, Jeanette Bergmann, did not accept my
12 doctor's note and directed me to obtain another doctor's note. Ms. Bergmann's reason for not
13 accepting my doctor's note was unclear. Nonetheless, on or around October 13, 2021, I submitted
14 another doctor's note, per Ms. Bergmann's request. Again, Ms. Bergmann did not accept my doctor's
15 note and directed me to obtain another doctor's note.

16 15. Despite my confusion regarding the deficiencies of the first two doctor's notes, on
17 October 21, 2021, I submitted a third doctor's note indicating that I could return to full capacity
18 pursuant to my hybrid schedule. Despite submitting multiple doctor's notes, Ms. Bergmann would
19 not allow me to return to work.

20 16. I followed up with Ms. Bergmann several times to request information on what exactly
21 I needed to provide to Ms. Bergmann in order to return to work. Ms. Bergmann's instructions were
22 unclear as I felt that I complied with her requests when I submitted the previous three doctor's notes.
23 Following my several attempts to return to work, Ms. Bergmann never allowed me to return to work.

24 17. On or around December 28, 2021, as a direct result of Defendant's discriminatory and
25 retaliatory employment practices, I was sent correspondence regarding job abandonment and
26 voluntary resignation. I was very confused by the correspondence because I attempted to return to
27 work several times in the months leading up to receiving the correspondence.

1 18. On January 24, 2022, I filed a Charge of Discrimination with the California Department
2 of Fair Employment and Housing and received a “right to sue” on November 10, 2022, thereby
3 exhausting my administrative remedies.

4 19. On February 8, 2023, I filed a first amended complaint alleging causes of action for
5 Discrimination on the Basis of Disability in Violation of California Govt. Cod §§ 12940, *et seq.*;
6 Failure to Reasonably Accommodate in Violation of California Govt. Code §§ 12940, *et seq.*; Failure
7 to Engage in a Timely, Good Faith Interactive Process in Violation of California Govt. Code §§ 12940,
8 *et seq.*; Work Environment Harassment; Retaliation in Violation of California Govt. Code §§ 12940,
9 *et seq.*; and Failure to Prevent Discrimination and Harassment in Violation of California Govt. Code
10 §§ 12940, *et seq.* (“Plaintiff’s Individual Claims”).

11 20. Following my resignation, and at the time of mediation, I had been unable to secure
12 comparable employment for over a year, resulting in damages for lost income ranging between
13 \$60,000 and \$90,000, unrelated to any of the sums resolved in the class and PAGA settlement. This
14 amount excludes non-economic damages, such as emotional distress damages and punitive damages.
15 Given the amount of the individual settlement, after deduction for attorneys’ fees, I believe my
16 individual settlement represents a reasonable compromise for those claims. I intend on dismissing my
17 Individual Claims, with prejudice, following final approval of the Settlement in exchange for my
18 individual settlement.

19 21. I understand I am bound by the terms of the class and PAGA settlement and will receive
20 a distribution from the settlement fund just as every other member of the class for the release of my
21 wage claims. Moreover, the reasonableness of the individual settlement amount is evidence of the
22 absence of conflict for me and my counsel with respect to the class.

23 I declare under the penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct. Executed Nov 30, 2023, at Oakland, California.

25
26 By: 
27 TAMIKA R. THOMAS
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