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6 Attorneys for Plaintiff
MICHELLE NOURIAN MARTINEZ

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 MICHELLE NOURIAN MARTINEZ,
on behalf of herself and all others
similarly situated,

11
12 Plaintiff,

13 vs.

14 HELZBERG'S DIAMOND SHOPS,
INC., and DOES 1-25 inclusive,

15
16 Defendant.

Case No. 5:20-cv-01085-PSG-SHK

**DECLARATION OF MICHELLE
NOURIAN MARTINEZ
SUPPORTING MOTIONS FOR
FINAL APPROVAL AND
ATTORNEYS' FEES, COSTS,
AND SERVICE AWARD**

Date: September 10, 2021
Time: 1:30 p.m.
Courtroom: 6A (6th Floor)
Judge: Hon. Philip S.
Gutierrez

17
18 I, Michelle Nourian Martinez, declare as follows:

- 19 1. I have personal knowledge of the facts stated in this declaration, and could
20 and would testify to those facts if called upon to do so.
- 21 2. I submit this declaration in support of Plaintiff's Unopposed Motions for
22 Final Approval of Settlement; and for Attorneys' Fees, Costs, and Service
23 Awards.
- 24 3. I am the Named Plaintiff in this case.
- 25 4. I, by and through my attorneys, filed our initial lawsuit against my former
26 employer, defendant Helzberg's Diamond Shops, Inc. ("Helzberg" or
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1 “Defendant”) on May 27, 2020. I have been closely involved and attentive to this
2 litigation and the arbitration since the beginning.

3 5. I worked for Defendants as a Store Manager at their retail jewelry store in
4 Temecula, CA from July 11, 2018 until that store closed in February 2021.

5 6. I was classified as an exempt employee and was never paid overtime or
6 meal or rest period premiums.

7 7. I believed that based on the actual work I did on a daily basis, I should not
8 have been classified as exempt, and should have been paid hourly, including
9 overtime, and should have been entitled to take off-duty meal and rest periods.

10 8. My issues with Defendant were the same as the other hourly employees
11 with whom I worked and who had trained me. Defendants had uniform practices
12 and policies, and I observed that my co-workers had similar experiences to me.

13 9. Eventually, I decided that I needed to do something about the non-
14 compliant practices at Helzberg because I felt that the Store Managers,
15 including myself, had been and were being taken advantage of. So I decided to
16 try to find an attorney who would take the case.

17 10. After a lot of searching on the internet, I eventually got in touch with my
18 counsel in this case. I spoke with them at length about my experiences, and
19 they offered me representation without charging a retainer fee. This took about
20 33 hours.

21 11. I spent a lot of time working with my attorneys providing background
22 information about my employment, about Defendants’ policies and practices,
23 and about the allegations in this lawsuit – including but not limited to the details
24 provided above. I gathered my compensation history, other employment
25 documents, and any policies Defendants had in place to assist my counsel in
26 assessing the potential claims for me and my co-workers. My attorneys used
27 this information to identify the claims that could be alleged on a class-wide
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1 basis, to understand the inner workings of Defendants, and to prosecute this
2 case on behalf of the Class and Collective. This took about 20 hours.

3 12. I participated in extensive interviews prior to the filing of the initial
4 complaint with my counsel. I exchanged several emails with my attorneys and
5 responded to questions about the complaint during telephone calls. These initial
6 interviews, follow up conversations, emails, and discussions took about 10
7 hours.

8 13. Once the case was filed, I continued to work to locate and provide
9 employment documents to my attorneys throughout the course of this litigation.
10 The documents included: email correspondence, timesheets, schedules, tax
11 forms, compensation statements, policies, and pay stubs. Locating, organizing,
12 and sending this documentation took several hours over several weeks,
13 approximately 20 hours.

14 14. After the initial complaint was filed, my attorneys sent me the Court's
15 Alternative Dispute Resolution packet, which I read and discussed with them.

16 15. I also actively participated in helping to identify possible Class and
17 Collective Members. I reached out to any and all co-workers and colleagues
18 who I thought would want to participate. I helped them stay informed about the
19 status of the case, answered their questions and concerns, and gathered more
20 information to help support the case. This took about 10 hours.

21 16. As the litigation continued, I regularly communicated with my attorneys via
22 email and telephone to discuss the status of the case and any recent
23 developments. These communications concerned, but were not limited to: initial
24 disclosures, notice of the case to employees, and preparing for mediations. I
25 estimate that I spent approximately 6 hours reviewing and responding to emails.
26 With respect to telephone conferences, I estimate that I spent about 10 hours
27 communicating with my attorneys.

1 17. We also scheduled mediations in the case to try to negotiate a settlement.
2 I made sure to clear my schedule to be available to respond to settlement
3 negotiations. At the mediation, which lasted approximately 8 hours, we spoke
4 and strategized at length about the range of possible, reasonable settlements,
5 until we reached an agreement. In order to attend the mediation, I had to miss
6 a day of work, which cost me over \$400, which was particularly difficult since
7 my store was closing later that month.

8 18. Eventually, the Parties recently reached an agreement to settle the case.
9 I reviewed and approved the proposed Class and Collective settlement
10 agreement. This took about 3 hours.

11 19. Including my review of the settlement agreement, I have reviewed several
12 hundreds of complex legal documents in this case, and asked my attorneys for
13 help to understand of many of the documents. My review of these documents
14 took about 5 hours.

15 20. In total, I estimate that I have spent roughly close to 119 hours engaged
16 in activities related to this litigation.

17 21. As part of the settlement agreement, I have agreed to release any and all
18 claims I have against Defendants.

19 22. I believe that the settlement is fair and reasonable, and that my hard work
20 has led to a beneficial result for the Class and Collective.

21 23. I therefore respectfully request that the Court grant final approval of the
22 service payment agreed to by the Parties of \$10,000 in the settlement
23 agreement.

24 24. All of the time I spent on this case was time that I could have been
25 involved in other endeavors, or with my family and friends. I still believe that it
26 was time well spent because someone needed to serve as a Class
27 representative and hopefully change Defendants' practices. I hoped that by
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1 filing these lawsuits and arbitration we could make Defendants stop taking
2 advantage of their workers like me.

3 25. Making a decision to participate in this case as Class representative also
4 placed me at substantial personal risk, including: (a) the risk of my reputation in
5 the community as a result of stepping forward publicly in two class actions and
6 a class arbitration, and the fear of retaliation against me as a result; (b) the risk
7 to my reputation as it concerns my future employment opportunities; (c) the risk
8 that I had to be subject to intrusive further discovery by Defendants; (d) the risk
9 that I would have to devote substantial resources, including my own time and
10 expenses, in participating in the case; (e) the risk that I might have to pay
11 defense costs if I lost the case; and (f) the risk that I could be terminated during
12 layoffs related to COVID due to my status as the Class Representative in this
13 case. If I was compelled to pay Defendant's costs had we lost the case at trial,
14 I believe that I would have been ruined financially.

15 26. I willingly took on these risks and burdens because I felt strongly about
16 serving as a Class representative and representing the Class and Collective in
17 this case.

18 I declare under penalty of perjury under the laws of the State of California
19 and the United States of America that the foregoing is true and correct and is
20 based upon my personal knowledge. Executed this 5 day of August (month),
21 2021 in Menifee (city), California.

22
23 Michelle Nourian Martinez

Michelle Nourian Martinez (Aug 5, 2021 14:41 PDT)

Michelle Nourian Martinez