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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF RIVERSIDE**

12 FELIX REY GUTIERREZ, individually, and on  
13 behalf of all others similarly situated,

*Plaintiff,*

v.

16 NEXT LEVEL DOOR & MILLWORK, INC., a  
17 California corporation, and DOES 1 through 10,  
18 inclusive,

*Defendants.*

Case No.: CVRI2105455

**CLASS ACTION**

[Assigned for all purposes to: Hon. Harold  
Hopp, Dept. 1]

**DECLARATION OF JOAN GRAFF**

Complaint filed: November 30, 2021  
Trial date: Not set

**DECLARATION OF JOAN GRAFF**

I, **Joan Graff**, declare as follows:

1. The facts set forth in this declaration are true and correct and are known to me personally except those matters stated on information and belief. If called as a witness, I could and would testify competently thereto under oath.
2. I am an attorney licensed to practice before the courts of the State of California.
3. Since 1981, I have served as President of Legal Aid at Work (“LAAW”), formerly known as the Legal Aid Society-Employment Law Center.
4. LAAW was founded in 1916 as the Legal Aid Society of San Francisco and is a nonprofit organization providing civil legal services to the indigent consistent with California Code of Civil Procedure 384. For over 100 years, LAAW has provided continuous service with the aim of offering free and high-quality legal assistance to those who are unable to afford legal representation. For more than five decades, LAAW has primarily devoted its resources to protecting the workplace rights of California’s low-wage workers. LAAW’s nonprofit status and work providing services to the indigent make it an appropriate designee of *cy pres* funds. LAAW is a CCP § 384 organization as described more specifically below.
5. As a nonprofit organization, LAAW funds its programs and projects from a diverse base of support: (a) donations from individuals, law firms, and businesses; (b) foundation and government grants; (c) allocations of monies from the Legal Services Trust Fund; and (d) *cy pres* distributions.
6. LAAW addresses the full range of employment issues that low-wage workers confront through the following seven programs: (a) Community Legal Services; (b) Disability Rights; (c) Gender and LGBT Equity; (d) National Origin and Immigrants’ Rights; (e) Racial Economic Equity; (f) Wage Protection; and (g) Work and Family.
7. The core of LAAW’s work is providing free legal services to low-wage workers with employment law claims. It litigates cases that address an array of issues important to low-wage workers, including (a) violations of wage-and-hour laws; (b) workplace retaliation; (c) discrimination on account of race, national origin, disability, sex, gender identity, sexual

1 orientation, immigration status and language proficiency; (d) harassment; and (e) failure to  
2 comply with equal pay laws and family medical leave laws. Whether in state or federal  
3 court, at the trial level or on appeal, nearly all of LAAW's cases impact the law and industry  
4 practices, raise community awareness, and change the course the clients' lives.

5 8. Since 1970, LAAW has defined its mission and devoted its practice to representing low-  
6 wage workers in enforcing the full range of their employment rights. I am informed and  
7 believe that LAAW is one of very few legal services nonprofits in the country that has this  
8 singular purpose.

9 9. With 22 attorneys, LAAW provides services to low-wage workers statewide and, in select  
10 instances, nationwide. LAAW's clients work in sectors in which low-wage work  
11 predominates, including caregiving, construction, hospitality, landscaping, retail, and  
12 transportation, as well as domestic, food, and janitorial services. Many of LAAW's clients  
13 are immigrants, and a significant number of them are monolingual Spanish, Mandarin, or  
14 Cantonese speakers or have limited English proficiency.

15 10. A sampling of wage-and-hour cases LAAW has litigated include the following actions:

16 a. An action on behalf of a group of roughly 370 campaign workers who were  
17 misclassified as independent contractors by a campaign operator working on the  
18 2019 campaign sponsored by Juul Labs, Inc. to allow for the sale of vaping products  
19 in San Francisco. After defeating a motion to compel arbitration and a motion to  
20 dismiss the claims against Juul Labs, Inc., Legal Aid at Work, with its co-counsel  
21 Leonard Carder, secured a settlement of \$1.75 million by Juul and the other  
22 defendants that was approved by the Northern District of California.

23 b. An action on behalf of roughly 350 kitchen workers at the Burma Superstar, Burma  
24 Love, and B star restaurants in San Francisco, Oakland and Alameda. The workers  
25 alleged that the chain failed to pay minimum and overtime wages, split shift  
26 premiums, and sick leave, did not provide adequate meal and rest breaks, and  
27 unlawfully retaliated against employees. In 2020, the class settled the claims for \$1.3  
28 million.

1 11. In addition to litigating cases, LAAW represents clients in administrative proceedings before  
2 state agencies including the California Labor Commissioner (“Labor Commissioner”) and  
3 the California Unemployment Insurance Appeals Board (“CUIAB”).

4 12. LAAW has represented clients in wage-and-hour and anti-retaliation enforcement  
5 proceedings, including:

6 a. Three Latino construction workers who were denied any overtime pay, despite  
7 working at least 52 hours most weeks for several years on major building projects in  
8 San Francisco. After the workers were laid off at the start of the pandemic, LAAW  
9 helped them bring claims to recover their wages. LAAW secured a settlement of  
10 approximately \$51,500 for these clients, recovering all of their overtime wages and  
11 the vast majority of penalties owed.

12 b. A Latino day laborer in Sonoma County who was owed several weeks of wages.  
13 When he asked his employer to pay him what was owed, the employer threatened to  
14 call Immigration and Customs Enforcement. We helped this worker to file a wage  
15 claim, a bond claim, and a retaliation claim. In response to our efforts to help this  
16 worker enforce his rights, the employer made death threats against our client. We  
17 amended our retaliation claim to include these threats, and won a judgment of  
18 approximately \$90,000. We recovered this judgment in full through a lien that the  
19 Labor Commissioner’s office placed on the employer’s property, less than a year  
20 after the threats were made.

21 c. Three Latina women who worked for a housecleaning company and were paid a  
22 fixed daily salary amount that did not compensate them for the considerable overtime  
23 hours they had to work to clean all the houses that the employer scheduled them to  
24 clean. The workers also had to work non-stop, without breaks, and their only  
25 opportunity to eat during the workday was while driving between assigned houses.  
26 LAAW represented the workers at a California Labor Commissioner settlement  
27 conference and secured a settlement of \$25,000 for the three workers.  
28

1 d. A Chinese-American worker who worked for several years as an on-site property  
2 manager in a residential apartment building in San Francisco, and was paid an  
3 extremely low monthly salary, far below the minimum wage. He also was not paid  
4 at all for six months of work. After a dispute with his employer, the client was fired  
5 and at the same time forced to move out of his home; when he was not able to move  
6 immediately, the building owners filed a lawsuit against him for trespass and  
7 damages. LAAW helped the worker file a claim for unpaid wages with the California  
8 Labor Commissioner, and represented the worker throughout the Labor  
9 Commissioner process. LAAW also took the lead in coordinating with outside  
10 attorneys representing the worker and his family in the housing lawsuit, and in a  
11 complex negotiation with multiple employer entities. We were able to secure a  
12 settlement in which our client received \$25,000 and the dismissal of the lawsuit  
13 against him.

14 e. Approximately 25 employees of a Burger King franchise in San Francisco who  
15 reported a wide array of systemic legal violations—including failure to pay for all  
16 hours worked, overtime, meal, and rest violations—to both the California Labor  
17 Commissioner’s Bureau of Field Enforcement and the City of San Francisco’s Office  
18 of Labor Standards Enforcement. LAAW has represented workers in interviews with  
19 state and local investigators, and provided legal support to Trabajadores Unidos  
20 Workers United, a worker center that has organized workers and developed a  
21 coordinated, worker-led campaign around the case. The dual government  
22 investigations have so far resulted in both a citation and subsequent settlement with  
23 the City of San Francisco for over \$800,000, covering unpaid health care  
24 expenditures for 235 employees; and the state’s \$2.2 million citation against the  
25 Burger King franchise, which includes unpaid wages and related penalties for 230  
26 employees. In 2022, the citation was upheld on appeal before the Labor  
27 Commissioner’s office.

- 1 13. LAAW Wage Rights Clinics helped low-wage workers assess their claims for unpaid  
2 wages, calculate the amount of unpaid wages, and prepare the forms necessary to initiate  
3 wage claims before the Labor Commissioner. From 2018 through 2022, the Clinic assisted  
4 over 390 clients, including many immigrants with limited English proficiency.
- 5 14. The Wage Protection Program also represents clients at conferences and hearings before the  
6 Labor Commissioner. From 2018 through 2022, the Wage Protection Program represented  
7 136 workers before the Labor Commissioner's Wage Adjudication Unit, securing  
8 \$1,007,045.17 in settlements and \$1,383,414.95 in Labor Commissioner awards for wages  
9 owed, penalties, and other available relief.
- 10 15. Additionally, LAAW's Community Legal Services Program provides advice and counseling  
11 to low-wage workers on the full range of employment law issues they face through fourteen  
12 statewide Workers' Rights Clinic locations: Antioch, Berkeley, East Palo Alto, Fresno, Los  
13 Angeles, Merced, Ontario, Sacramento, San Bernardino, San Diego, San Francisco, Santa  
14 Ana, Visalia, and Watsonville. The Community Legal Services Program volunteers also  
15 respond to calls on the Clinic's toll-free hotline that makes LAAW's services accessible to  
16 low-wage workers in more remote areas that are beyond the reach of Clinic sites.
- 17 16. During the academic year, LAAW also holds a biweekly Workers' Rights Disability Law  
18 Clinic at the Ed Roberts Campus located in Berkeley, California. The clinic provides free  
19 legal counseling, advice, referrals, and limited representation to low-income workers and  
20 job-seekers with disabilities.
- 21 17. From 2018 through 2022, LAAW's clinics and helplines assisted approximately 13,399 low-  
22 wage workers from all 52 counties throughout California.
- 23 18. Although LAAW does not limit its services to only those clients living in Riverside  
24 County, it has provided (and continues to provide) significant services to workers in  
25 this County.
- 26 19. Two of LAAW's Workers' Rights Clinic locations are in the nearby cities of Ontario  
27 and San Bernardino, through which we serve many clients who live or work in Riverside  
28 County. We operate those clinics in partnership with the Warehouse Worker Resource

1 Center and the Legal Aid Society of San Bernardino, respectively, and normally hold  
2 22 clinics each year collectively at those locations.

3 20. We also provide clinic services to clients in Riverside County “virtually” through  
4 helplines and videoconferencing, and these services intensified during the pandemic  
5 and in its aftermath.

6 21. Collectively, and as documented in our case management system, since 2018 LAAW’s  
7 network of in-person and virtual clinics and helplines have provided legal advice and  
8 counsel to at least 215 clients who live or work in Riverside County.

9 22. In addition to the advice-and-counsel sessions that we offer through our clinics and  
10 helplines, we have also taken on several extended and full-scope representation matters  
11 for clients in Riverside County. For example:

12 a. We represented a Latina woman who worked in a retail store in Riverside County  
13 and was sexually harassed on the job by her supervisor, who was a repeat  
14 offender. The Equal Employment Opportunity Commission issued a rare “cause”  
15 determination in that case (showing that the case had significant merit), which  
16 ultimately helped us reach a confidential settlement for our client.

17 b. We secured a pre-litigation settlement with a large nationwide retailer on behalf  
18 of nine deaf workers, two of whom were from Riverside County. The retailer  
19 agreed, among other things, to provide sign language interpreters, training, a  
20 contact-person for accommodations and emergency and evacuation notification.  
21 We later provided follow-up assistance on behalf of one of the Riverside clients  
22 who was still experiencing problems at work.

23 c. We represented a woman who lives in Palm Desert who was a witness in a  
24 criminal wage-theft (misclassification) case brought by several different  
25 prosecutors’ offices. We represented the client during her deposition by the  
26 company’s counsel.

27 23. In addition to directly providing legal services, we have also helped educate advocates  
28 and workers in Riverside County about their job-related legal rights.

1 a. As part of our efforts to protect and expand the rights of persons in Riverside  
2 County with arrest or conviction histories, we have partnered closely with the  
3 Inland Empire Fair Chance Coalition that advocates for formerly incarcerated  
4 persons in Riverside and San Bernardino counties. As part of that partnership, we  
5 have:

- 6 i. Provided technical assistance to the Coalition to help the organization file  
7 charges with the Department of Civil Rights and resolve them.
- 8 ii. Conducted a pilot program that aimed to test whether employers posting  
9 for jobs in the Inland Empire are illegally screening applicants based on  
10 their criminal history.
- 11 iii. Hosted virtual trainings with the Coalition. To date, at least 200 attendees  
12 have attended these trainings. (An example of one of these trainings is  
13 featured on the Inland Empire Fair Chance Coalition’s website  
<https://www.iefcc.com/trainings.html>.)
- 14 iv. Hosted “train the trainer” events for Coalition members on how to conduct  
15 “Know Your Rights” trainings on the Fair Chance Act. These trainings  
16 have led the Coalition to conduct at least five additional trainings with  
17 over 250 attendees.

18 24. We have collaborated with the Inland Empire Health Plan (IEHP), which is the largest  
19 not-for-profit Medi-Cal and Medicare health plan in Riverside and San Bernardino  
20 Counties in providing low-income families with information about their rights to paid  
21 and job-protected leave when they need time off of work to care for themselves, a loved  
22 one, or to bond with a new baby. Specifically, we worked with the IEHP staff to review  
23 and update worker-facing educational materials that are designed to advise families  
24 about their rights and benefits under unemployment insurance, paid family leave, state  
25 disability insurance, and job-protected family medical leave programs, and inform them  
26 how to access these benefits-all presented in a culturally and linguistically appropriate  
27 way.  
28



1 25. We represented a single mother of three children in Riverside County who was  
2 terminated from her job at a luxury retail store for attempting to take leave protected by  
3 the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).  
4 We helped the client to draft a demand letter and a records request and to submit a  
5 complaint with the Department of Fair Employment and Housing (DFEH), alleging  
6 discrimination on account of pregnancy, sex, and disability.

7 26. LAAW also represents workers with unemployment insurance claims at the California  
8 Unemployment Insurance Appeals Board. From 2018 through 2022, LAAW represented 73  
9 clients in administrative appeals from denials of unemployment benefits with a 93% success  
10 rate in overturning denials and securing benefits or reversing overpayments.

11 27. LAAW is committed to serving those whose primary language is not English. LAAW  
12 employs multiple bilingual attorneys and other staff who are fluent in English and Spanish,  
13 and a language coordinator who is fluent in Mandarin and Cantonese. The language  
14 coordinator also ensures that interpreters are available when LAAW lacks in-house language  
15 capacity. LAAW also publishes translated versions of its fact sheets and other legal  
16 information on its website in Spanish and Chinese. These tools enhance the reach of LAAW  
17 to workers around the state.

18 28. As part of LAAW's statewide activities, its staff engages in extensive outreach, education,  
19 and training initiatives to inform low-wage workers and their communities, grassroots  
20 advocates, and nonprofits organizations—legal and non-legal—about workplace rights. In  
21 particular, LAAW:

22 a. Writes a regular employment rights column in the weekly Northern  
23 and Southern California editions of *Sing Tao*, a Chinese newspaper with wide  
24 circulation in the community;

25 b. Conducts trainings for domestic violence survivors and service  
26 providers about employment law protections available to survivors;

27 c. Provides periodic trainings at the University of California, San  
28 Francisco Medical Center for cancer patients and their caregivers; and

1                   d.       Provides trainings in collaboration with Swords to Plowshares  
2                   focused on women veterans and employment.

3       29. To extend its expertise beyond its doors, LAAW composes and distributes a wide range of  
4           self-help and informational materials. These include: 90 topic-specific “Your Legal Rights”  
5           fact sheets which are drafted in plain language and nearly all are translated into Chinese and  
6           Spanish for use by workers and advocates; the Employment Law Manual, a complete  
7           compendium of California employment laws used as a basic resource and reference tool by  
8           students, attorneys and nonprofit organizations around the state; and a website providing  
9           workplace know-your-rights information.

10       30. LAAW also offers its expertise to other nonprofit organizations—legal and non-legal. For  
11           example, as part of the Coalition of Low-Wage and Immigrant Worker Advocates, LAAW  
12           participates in an annual conference, monthly conference calls, and regular meetings with  
13           administrative agencies such as the Labor Commissioner and the CUIAB. In addition,  
14           LAAW is a leading member of the statewide Work and Family Coalition, a member of the  
15           nationwide Freedom Network, the largest coalition working to ensure that trafficked persons  
16           have access to justice, safety, and the San Francisco’s Mayor’s Anti-Human Trafficking  
17           Taskforce. Finally, LAAW works closely with the Inland Empire Fair Chance Coalition-  
18           providing its members with advice on several Fair Chance cases filed at the California  
19           Department of Fair Employment and Housing and hosting several trainings with the  
20           Coalition.

21       31. Actively participating as *amicus curiae* is an integral part of LAAW’s statewide efforts to  
22           protect the rights of low-wage workers and advance their interests in key appellate court  
23           cases. These cases include *Kirola v. City and County of San Francisco* (Case No. 14-17521);  
24           *Turman v. Koji’s Japan Inc.* (Case No. G051871); *Sonic-Calabasas v. Moreno* (Case No.  
25           S174475) (*Sonic II*); *Harris v. City of Santa Monica* (Case No. S181004); *Dedinas v.*  
26           *Superior Court, County of Los Angeles* (Case No. S182827); *Paratransit, Inc., v. Medeiros*  
27           (Case No. 204221); *Wills v. Superior Court, County of Orange* (Case No. G043054); *Law*  
28           *School Admissions Council v. State of California* (Case No. C073187); *Oman, et al. v. Delta*

1 *Air Lines, Inc.*, Case No. S248726 (Cal. Supreme Court, February 2019); *Skidgel v. California*  
2 *Unemployment Insurance Appeals Board*, Case No. S250149 (Cal. Supreme Court, April  
3 2019); and *Naranjo v. Spectrum Security Services*, Case No. S258966 (Cal. Supreme Court,  
4 March 2022).

- 5 32. The breadth of LAAW’s work throughout California is enhanced immeasurably by *cy pres*  
6 awards. They have assumed an increasingly important place among its revenue sources.  
7 Consistent with the claims of employment class actions these funds are used to protect the  
8 workplace rights of low-wage workers by helping LAAW to maintain programs and  
9 undertake initiatives in response to urgent community needs. *Cy pres* awards have also  
10 enabled us to serve the community of low-wage workers in many specific ways, including:  
11 (a) a training video for student volunteers on how to conduct a client interview in the  
12 Workers’ Rights Clinic; (b) translation of dozens of fact sheets into Chinese and Spanish;  
13 and (c) the design and implementation of an online registration system for the more than 100  
14 attorney volunteers who participate as supervisors at the Workers’ Rights Clinic statewide.
- 15 33. If awarded *cy pres* monies in this case the funds will be used solely to fund: 1) our Workers’  
16 Rights Clinic – including our sites in Ontario and San Bernardino, which serve Riverside  
17 County clients and; 2) our Wage Protection Program, which advances the underlying  
18 purpose of the plaintiffs and class members. By using the tools and strategies set forth in  
19 this declaration the Program protects, enforces and strengthens the rights of low-wage  
20 workers to be paid the wages they have earned.

21  
22 I declare under penalty of perjury pursuant to the laws of the State of California that the  
23 foregoing is true and correct. Executed on this 7th day of July, 2023 at San Francisco, California.

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Joan Graff