

ENDORSED
FILED
ALAMEDA COUNTY

JUL 22 2021

CLERK OF THE SUPERIOR COURT
By Smole Deputy

Yosef Peretz (SBN 209288)
Shane Howarter (SBN 311970)
PERETZ & ASSOCIATES
22 Battery Street, Suite 200
San Francisco, CA 94111
Tel: 415.732.3777
Fax: 415.732.3791
yperetz@peretzlaw.com
showarter@peretzlaw.com

Martin M. Horowitz (SBN 79073)
Stephanie Rubinoff (SBN 98229)
HOROWITZ & RUBINOFF
1440 Broadway, Suite 607
Oakland, CA 94612
Tel: 510.444.7717
mhorowitz@h-rlegal.com
srubinoff@h-rlegal.com

Attorneys for Named Plaintiffs IRENE CLINE, LYNN CHO,
DESIREE PACHECO, and ITZEL MARLENE DIAZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA COUNTY**

IRENE CLINE, LYNN CHO, DESIREE
PACHECO, and ITZEL MARLENE DIAZ,
individually, on behalf of all other similarly
situated persons, on behalf of the
CALIFORNIA LABOR AND
WORKFORCE DEVELOPMENT
AGENCY, and on behalf of the STATE OF
CALIFORNIA,

Plaintiffs,

v.

SI SE PUEDE BEHAVIORAL, INC. a.k.a.
SOCIALLY SIGNIFICANT
PROGRAMMING FOR BEHAVIORS,
INC., a California corporation; FELICIA
LOPEZ, an individual; and DOES 1-20,

Defendants.

Case No. RG18911378

**DECLARATION OF ITZEL MARLENE
DIAZ IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

ASSIGNED FOR ALL PURPOSES TO
JUDGE WINIFRED Y. SMITH
DEPARTMENT 21

Date: August 13, 2021
Time: 10:00 a.m.
Reservation Nos.: R-2276695

Complaint Filed: July 2, 2018
Trial Date: None set

1 I, Itzel Marlene Diaz, declare as follows:

2 1. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of
3 Class Action Settlement. The facts set forth in this declaration I know to be true of my own
4 personal knowledge, except where facts are stated to be based on information and belief, and
5 those facts I believe to be true. If called as a witness I could and would testify competently to
6 the matters set forth in this declaration.

7 2. I worked as an hourly, non-exempt tutor at SSPBI from September 2015 to July 2016.

8 3. Upon my hire, I received a copy of the SSPBI employee handbook stating that tutors are
9 only paid for time spent in sessions with clients.

10 4. Despite spending many hours in any given work week driving in my car for work, I was
11 not compensated for any time spent driving to, from, or between clients' homes for sessions.

12 5. I was only reimbursed for mileage when I voluntarily submitted a form to SSPBI. I
13 believe that I only submitted a reimbursement form once, if at all, because I was too busy with
14 clients during the day. When I was hired, SSPBI did not inform me about getting reimbursed
15 for mileage. I heard about the voluntary forms from a co-worker approximately two months
16 after I joined SSPBI. Despite not having time to fill out the mileage reimbursement forms, and
17 consistently being unable to submit them, no SSPBI manager ever reached out to me about
18 reimbursing my mileage.

19 6. I was often not permitted to take meal or rest breaks, regardless of the number of hours I
20 worked in a day. No SSPBI manager ever told me that I was entitled to meal and rest breaks.

21 7. There were many weeks where I was scheduled for back-to-back sessions every
22 workday. This meant I only had time to rush to my car and immediately drive to the next
23 session, with no time for a break or meal in between. As a result of working back-to-back
24 sessions, I frequently ate lunch in my car, even while driving to my next session, or did not eat
25 lunch at all.

26 8. SSPBI calculated my overtime hours on a weekly basis rather than on a daily basis. As
27 a result, I was not paid for all of the overtime hours I worked. I occasionally worked over eight
28 (8) hours on Saturdays, when I would attend a longer Play/Social Group session in the morning
and early afternoon followed by regular sessions at clients' homes.

9. As a result of these violations, SSPBI failed to provide me with accurate, itemized wage
statements.

1 10. I believe I am an adequate class member representative because I was subject to the
2 same employment practices and policies as the Class Members from SSPBI.

3 11. I am informed and believe that my claims against Defendants are typical of the Class
4 Members' claims being settled in this case. I have spoken with my attorneys regarding the
5 fiduciary duties that I have as a class representative and believe that I can adequately fulfill
6 those fiduciary duties to the Class Members.

7 I declare under penalty of the laws of the state of California that the foregoing is true
8 and correct and that this declaration was executed on this day 7/21/2021, in Hayward,
9 California.

DocuSigned by:

10 

ED79299DE0724A7...

11 Itzel Marlene Diaz
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28