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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

DAVID EZELL, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

DIAB LEASING, INC., a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 34-2021-00305329

**DECLARATION OF DAVID EZELL IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: January 5, 2024

Time: 9:00 a.m.

Judge: Hon. Lauri A. Damrell

Dept.: 28

1 I, DAVID EZELL, 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 lead named Plaintiff in the
4 above wage and hour class and representative action filed against DIAB LEASING, INC. (hereinafter
5 “Defendant”).

6 2. This declaration is being submitted in support of Plaintiff’s motion for Final Approval of
7 Class Action and PAGA Settlement.

8 3. I retained Class Counsel in April of 2021 and filed the lawsuit in July of 2021. I filed
9 the case on behalf of myself and a class of current and former non-exempt California employees
10 employed by Defendants during the period from July 30, 2017 to December 2, 2022.

11 4. I worked for Defendants as a non-exempt hourly employee from October 2020 to March
12 2021.

13 5. I filed the case because I believed my rights as an employee were violated by Defendants
14 and also the rights of other employees that worked for Defendants. Among other claims, I believe
15 Defendants failed to pay me for all hours worked, failed to provide legally compliant meal and rest
16 periods, and miscalculated the regular rate of pay for purposes of overtime, double time, meal period
17 premiums, and redeemed sick pay.

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

23 7. During these conversations, I learned about my responsibilities as a plaintiff in the
24 lawsuit and as a proposed Class Representative. I understood that pursuing this action as a class action
25 rather than merely seeking my individual claims substantially increased the risk to me. Those risks
26 included the possibility of being held liable for Defendants’ attorneys’ fees and costs in a complex class
27 action if I lost the case. I also understood that as a Class Representative, I would be under increased
28

1 scrutiny by the attorneys and the Court because I needed to prove that I was an adequate class
2 representative. Further, I understood that I would lose some autonomy over my individual claims that
3 I could not make decisions for my sole benefit and that I needed to make every litigation decision with
4 the best interests of the Settlement Class in mind.

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

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

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

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

19 12. **Review and Approval of Settlement:** A mediation was held on July 18, 2022. Even
20 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
21 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
22 with my attorneys after the continued settlement negotiations and discussed the proposed settlement. I
23 was satisfied with the terms of the settlement that was agreed to by the parties. When the settlement
24 papers were ready, I again spoke with my attorneys and reviewed the settlement agreement which I
25 signed on April 12, 2023. When the amended settlement papers were ready, I again spoke with my
26 attorneys and reviewed the amended settlement agreement which I signed on May 24, 2023.

13. **Broad General Release:** I understand that the Class Representative's Payment is intended, in part, to compensate me for my release of the Released Class Claims. Additionally, unlike the other Class Members, I also granted Defendants and the Released Parties a broad general release and waiver of claims pursuant to California Civil Code section 1542 and released Defendants and all additional Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violations of any federal, state or other governmental statute, law, regulation or ordinance.

14. **Participation:** Since I retained Class Counsel over two years ago, I have been actively involved with this class action lawsuit performing the duties described above. While I did not keep formal time records, I was in regular contact with my attorneys, reviewed important court filings, and spent considerable time on the issues presented during the litigation and in the settlement process. I estimate that I spent approximately 20 to 30 hours working on this case.

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

16. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who now stand to receive substantial monetary payments as a result of this case and settlement. I also believe that the requested Class Representative's Payment in the amount of \$10,000.00 from the settlement is fair compensation for the (1) the broad general release I executed, (2) the work I performed, (3) the sacrifices made not pursuing this case individually, and (4) the risks I undertook.

17. In light of all the time and effort I have spent on this case, the sacrifice I have made, the risks I undertook by suing a former employer, the exposure to being responsible for paying Defendants' costs in the event we did not win the case, and in light of the size of the settlement, I believe the request for \$10,000.00 as a service award is fair and reasonable.

18. Further, I support my attorneys' application for a Class Counsel Award in the amount of up to \$533,333.33, plus costs and expenses of up to \$25,000.00 for reimbursement of actually incurred litigation expenses.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed Dec 8, 2023, at Sacramento, California

By: David Ezell (Dec 8, 2023 10:38 PST)
DAVID EZELL