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Attorneys for Plaintiff and Class Members

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JAMES ABERNATHY, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

DEACON CONSTRUCTION, LLC, an
Oregon limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 20CV367327

[Assigned for all purposes to the Hon. Charles F.
Adams, Dept. 7]

**DECLARATION OF LARRY W. LEE IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: February 6, 2025

Time: 1:30 P.M.

Dept.: 7

Action Filed: June 17, 2020

Trial Date: None Set

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I, Larry W. Lee, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Plaintiff James Abernathy ("Plaintiff"). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The proposed settlement meets the criteria for this Court to grant final approval of this matter on a class-wide basis, as the settlement is fair, adequate, and reasonable.

3. The Joint Stipulation of Class Action and PAGA Settlement was the product of arm's length negotiations between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research which they had carefully analyzed. Plaintiff's counsel engaged in extensive factual investigation before settling. The Parties also participated in two separate days of mediation with the Honorable Richard M. Silver (Ret.) and the Honorable Ronald M. Sabraw (Ret.). The Parties conducted formal and informal discovery prior to mediation, including reviewing class data and the production of Defendant's relevant policies and practices. The exchange of information allowed Plaintiff's counsel to analyze liability and exposure.

4. I have spent significant time researching and pursuing the claims that have been alleged in this action. Based on my independent investigations and evaluations, I am of the opinion that the proposed settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members in light of all known facts and circumstances, and the expenses and risks inherent in litigation. The settlement was negotiated at arm's length and was facilitated by an experienced and neutral mediator. Thus, this settlement should be granted final approval.

5. Any remaining monies from uncashed settlement checks will be transmitted to the California State Controller's Unclaimed Property Fund in the name of the individual(s) to whom the funds relate.

6. I am one of the primary attorneys on this matter. My qualifications are as follows:
I received my J.D. from Arizona State University College of Law in 2003. During law school, I

1 was a summer associate at the law firm of Brobeck, Phleger & Harrison. I graduated cum laude
2 from Arizona State University College of Law in the top 10% of my class. While I was in law
3 school, I was the Associate Managing Editor of the Arizona State University College of Law,
4 Law Journal. Upon graduation, I practiced law as an associate at the Los Angeles County offices
5 of Ogletree Deakins Nash Smoak & Stewart, P.C., a national employment defense law firm that
6 represents a significant number of Fortune 500 companies.

7 7. My firm's primary focus is employment law. I have handled a number of wage
8 and hour matters including class actions and multiple-plaintiff actions. I have a practice that
9 encompasses cases in the Los Angeles Superior Courts, the Orange County Superior Courts, the
10 San Francisco County Superior Courts, the San Diego County Superior Courts, and the United
11 States District Courts for the Central, Eastern, Northern, and Southern Districts of California.

12 8. I have been named as class counsel in a number of class actions that have been
13 granted final approval by the Superior Courts of Los Angeles County, Orange County, San
14 Francisco County, Alameda County, Contra Costa County, Monterey County, San Bernardino
15 County, Santa Clara County, Sonoma County, and the United States District Court for the
16 Central, Eastern, and Northern Districts of California, including but not limited to the following
17 class actions: *Chan Lanier v. Citigroup, Inc. et al.*, San Francisco Superior Court Case No. CGC-
18 05-445143; *Naqvi v. Acoustic Home Loans et al.*, Orange County Superior Court Case No.
19 05CC00263; *Ortega v. AIG*, Central District of California Case No. CV 06-0196-RSWL (PJWx);
20 *Universal Protection Overtime Cases*, Orange County Superior Court, Judicial Council
21 Coordination Proceeding No. 4480; *Tse v. Best Buy*, Los Angeles Superior Court Case No.
22 BC392717; *Hernandez v. CVS Corp. et al.*, Judicial Council Coordination Proceeding No. 4539;
23 *Padilla v. Safeway*, San Benito County Superior Court Case No. CU-16-00182; *Valles v.*
24 *Community Hospital of the Monterey Peninsula*, Monterey County Superior Court Case No.
25 17CV003452; *DirecTv Wage and Hour Cases*, Santa Clara Superior Court Judicial Council
26 Coordination Proceeding No. 4850; *Perez v. Standard Drywall, Inc.*, Alameda County Superior
27 Court Case No. RG15761142; and *Davis v. Nugget Market, Inc.*, Yolo County Superior Court
28 Case No. CV-18-558.

1 9. I have been approved as class counsel in numerous other wage/hour class actions
2 that have been granted class certification and final approval.

3 10. To date, I have incurred approximately 56.1 hours in connection with the
4 litigation of this lawsuit. Attached hereto as **Exhibit A** is a chart summarizing the amount of
5 work I have incurred to date on this matter.

6 11. In addition to the hours above, I also anticipate spending an additional 10 hours
7 through the completion of this case including conferring and reviewing e-mails and other written
8 communications with counsel for Defendant, the Settlement Administrator, and Class Members
9 regarding any post-final approval matters, including payments and related issues.

10 12. Thus, I anticipate the total amount of my fees incurred in this case to be
11 approximately \$59,490.00, based on an hourly rate of \$900.00 per hour. Since at least 2020, I
12 have been approved at an hourly rate of \$750.00 per hour by various courts. Examples of these
13 courts include the following cases: *Hernandez v. Wells Fargo Bank*, Santa Clara County
14 Superior Court Case No. 16CV299319; *Carrillo v. New Balance Athletics, Inc.*, Santa Clara
15 County Superior Court Case No. 19CV352469; *Ramirez v. Walgreen Co.*, United States District
16 Court, Northern District of California Case No. 18-cv-03921-EJD; *Chavez v. Converse, Inc.*,
17 United States District Court, Northern District of California Case No. 15-cv-03746-NC; *Foster v.*
18 *Schindler Elevator Corporation*, Alameda County Superior Court Case No. RG19029640; *Foaad*
19 *Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia*
20 *Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della*
21 *Maggiore v. Watsonville Community Hospital*, Santa Cruz County Superior Court Case No.
22 18CV00191; *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court
23 Case No. CIVDS1823132; *Michael Randolph v. Pacific Racing Association*, Alameda County
24 Superior Court Case No. RG18908139; *Markham v. Quik Stop Markets, Inc.*, Santa Clara County
25 Superior Court Case No. 19CV341582; *Siron v. Raypak, Inc.*, Ventura County Superior Court
26 Case No. 56-2019-005279959-CU-OE-VTA; *Carter v. Kline Services, Inc.*, San Bernardino
27 County Superior Court Case No. CIVDS1828867; and *Prexxie Pascual and Arturo Fonseca v.*
28 *Satellite Healthcare, Inc.*, Santa Clara County Superior Court Case No. 19CV345211.

13. I was approved at an hourly rate of \$800.00 per hour in *Martinez and Acosta v. City of Hope National Medical Center, et al.*, San Bernardino County Superior Court Case No. CIVDS2015729; *Jaime Moen v. Genentech, Inc.*, San Diego County Superior Court Case No. 37-2021-00008619-CU-OE-CTL; *Murray v. Granite Wellness Centers et al.*, Nevada County Superior Court Case No. CU20-084680; *Smith, et al. v. Clean Harbors Environmental Services, Inc.*, Sacramento County Superior Court Case No. 34-2021-00292526; *Correa et al. v. FedEx Supply Chain, Inc.*, San Bernardino County Superior Court Case No. CIVDS2023369; *Meguro v. Silicon Valley Bank*, Santa Clara County Superior Court Case No. 20CV369854; and *Linaki v. Genji Pacific, LLC*, Alameda County Superior Court Case No. RG20074795.

14. Starting in 2025, I have increased my billing rate to \$900. Throughout 2024, I was approved at \$850.00 per hour in *Stephenson v. Healthcare Services, Inc.*, Orange County Superior Court Case No. 30-2019-01078609-CU-OE-CXC, *Lakey v. Poshmark, Inc.*, Santa Clara Superior Court, Case No. 22CV395084; *Audycki v. Stanford Health Care*, Santa Clara Case No. 19CV347173; *Palomino v. Northrop Grumman Systems Corporation*, Santa Clara Superior Court Case No. 19CV345534; *Lakey v. Poshmark, Inc.*, Santa Clara Superior Court, Case No. 22CV395084; *Stephenson v. Healthcare Services, Inc.*, Orange County Superior Court Case No. 30-2019-01078609-CU-OE-CXC; and *Medina v. United Airlines, Inc.*, Los Angeles Superior Court, Case No. BC624742.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 14th day of January 2025, at Los Angeles, California.

Larry W. Lee

EXHIBIT A

Abernathy v. Deacon Construction, LLC
Larry W. Lee Time and Task Chart

Hours	Description of Work
5.5	Review client documents and research Defendant's background and prior litigation history
1.0	Draft PAGA letter; review and revise complaint
1.1	Review and revise written discovery.
2.5	Analyze and review Defendant's production of documents and discovery responses to prepare for mediation.
1.9	Confer with co-counsel re deposition of Person Most Qualified; strategize re same.
2.4	Review deposition transcript of plaintiff; confer with co-counsel re impact re same; strategize re further litigation.
3.5	Review deposition transcript of PMQ; confer with co-counsel re implications of same and litigation strategy.
2.8	Confer with counsel re first mediation and mediation data needed to participate in same.
4.1	Review and revise mediation brief; analyze data and calculate damages for same; attend same
1.7	Confer with counsel following failed first mediation; strategize re next steps considering same.
5.3	Further draft and revise motion for class certification and supporting documents; confer with counsel re same.
2.6	Review Defendant's opposition to motion for class certification; confer with co-counsel re reply re same and how to address declarations; conduct legal research re same.
1.1	Further revise deposition outline for declarants of Defendant submitted in opposition to class certification motion.
1.5	Further draft and revise reply in support of motion for class certification; confer with co-counsel re same.
1.2	Confer with co-counsel following certification of claims re strategy moving forward; further draft and revise discovery requests following certification.
1.1	Further draft and revise proposed class notice; confer with co-counsel re same.
3.6	Confer re second mediation; further draft and revise data requests for second mediation and further draft and revise second mediation brief.
1.7	Review and revise MOU; confer with co-counsel and defense counsel re same.
3.2	Review and revise settlement agreement; confer with counsel re same
1.9	Review and revise Motion for Preliminary Approval and supporting documents
4.9	Confer with class members re settlement issues; confer with settlement administrator re same.

1.5	Review and revise Motion for Final Approval and supporting documents
56.1	TOTAL HOURS