

**Electronically Filed
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Case #20CV367327
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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
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: July 25, 2024
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. From the inception of the case, Class Counsel has zealously represented the interests of Class Members. Class Counsel exchanged written discovery and engaged in significant meet and confer discussions with opposing counsel to obtain informal data and documents on behalf of Class Members. This settlement was obtained for the benefit of Class Members, as opposed to the individual Class Representative.

3. I have spent significant time researching and pursuing the claims that have been alleged in this action. The Parties engaged in formal and informal discovery, including taking the deposition of Defendant's persons most knowledgeable, and exchanging class data and Defendant's pertinent policies and practices. Based on my review of all the documents and information, and based on my experience in class action litigation, I believe this settlement to be fair, adequate, and reasonable.

4. I was retained based upon a contingency fee arrangement wherein Plaintiff's counsel agreed to advance all costs and receive no fee unless a recovery was accomplished. Specifically, had Plaintiff failed to prevail in this case, counsel for Plaintiff would have spent a significant amount of time, money and other resources without any benefit or return. In addition, had Plaintiff also failed to prevail in the present case, Defendant would have been able to seek costs in connection with their defense of the case.

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. My co-counsel and I will adequately represent the Class Members in this action.
2 Class Counsel has and will zealously represent Plaintiff and the Class Members and pursue this
3 lawsuit to its conclusion.

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

6 Executed on this 1st day of July 2024, at Los Angeles, California.

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8 
Larry W. Lee