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**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 JAMES ABERNATHY 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

1 I, James Abernathy, declare as follows:

2 1. I am an individual over the age of 18 years old and am a resident of California. I
3 am the named Plaintiff in this matter. I have personal knowledge of the facts set forth below and
4 if called to testify I could and would do so competently.

5 2. I worked for Defendant Deacon Construction, LLC ("Defendant") as a
6 construction worker from about December 2019, to about April 7, 2020. I worked as an hourly,
7 non-exempt employee.

8 3. During my employment with Defendant, I regularly worked shifts of at least five
9 hours. Defendant did not permit me to record the exact start and stop times of my meal periods,
10 or even how long a meal period lasted. As such, I do not believe I was provided with timely and
11 proper off-duty meal breaks.

12 4. In addition, I frequently worked on job sites where I was required to use my
13 personal cell phone for work purposes. For example, I was required to view and respond to
14 work-related communications in order to do my job. Defendant did not reimburse me for the
15 costs of using my personal cell phone.

16 5. Defendant also failed to provide me with proper wage statements during my
17 employment. The wage statements I received identified my employer as "DC LLC – SAC GC." I
18 do not believe this is the correct legal name for Defendant. The wage statements also showed a
19 pay period end date, but did not identify the pay period start date. As such, I could not tell which
20 dates I was being paid for just by looking at the wage statement.

21 6. During the pendency of this lawsuit, I was required to provide assistance to my
22 attorneys, including meeting with them and providing them with documents and information. I
23 have spent a significant amount of time meeting and/or conferring with my attorneys in
24 connection with the assistance/prosecution of the class claims. I estimate that I spent at least 60 -
25 65 hours in connection with the assistance/prosecution of the class claims in this lawsuit. This
26 includes engaging in numerous telephonic discussions and meetings with my counsel regarding
27 the case, searching for and providing various documents relating to my claims, preparing for and
28 having my deposition taken in-person, reviewing and preparing my declaration in support of

1 class certification, and reviewing various files and pleadings in this case, including the settlement
2 agreement in this case. Throughout this case, I have continuously been kept apprised of the status
3 of this case. I have also had my character attacked by Defendant in this action because of my
4 past incarceration, which the Court ultimately ruled did not impact my ability to serve as the
5 class representative in this action.

6 7. I understand that this action was brought on behalf of all other employees in the
7 State of California, and that I am acting as a representative for Class Members. As the Class
8 Representative, I understand that it is my responsibility to act in the best interests of Class
9 Members and not my own. I agree that I will not put my own interests ahead of those of the
10 Class Members, and that I will not settle out my class claims in this lawsuit separately or
11 independently from Class Members. Moreover, I am not aware of any conflicts that exist
12 between my interests and the interests of Class Members that would impair or affect my ability
13 to serve as representative for Class Members.

14 8. I have and continue to be willing to assist in the investigation of this matter,
15 including meeting, conferring, and discussing the case with my attorneys, providing any
16 necessary information and documents, and making myself available for trial or any further
17 proceedings in this matter as required to represent the interests of Class Members. I also
18 understand my duties and responsibilities to the Class Members and will carry out those duties as
19 necessary.

20 9. I have discussed the terms of the Joint Stipulation of Class Action and PAGA
21 Settlement ("Settlement Agreement") with my attorneys, and based on the information provided,
22 I believe the settlement to be fair, adequate, and reasonable for myself and for the Class
23 Members.

24 10. I understand that I could have been liable for Defendant's legal costs had
25 Defendant prevailed. I also understand that this lawsuit was filed in the public court records.

26 11. I understand that in addition to the claims that are being released by the proposed
27 settlement, I agreed to provide a general release of claims, which I understand is a more
28 expansive release than the release provided by the Class Members.

12. I am proud of the results achieved in this case and the compensation that will be provided to the employees of Defendant because of the actions taken. I support this settlement and am prepared to do whatever is necessary to see it through.

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

Executed on this 9 day of January 2025, at Fremont, California.

DocuSigned by:

 04EB81E307BE47F...
 James Abernathy