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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

DAMMION MYLES, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

BUILDERS CONCRETE, INC., a California
Corporation; CONCRETE HOLDING
COMPANY OF CALIFORNIA, INC., a
Corporation; VIKING READY MIX CO.,
INC., a Corporation; NATIONAL READY
MIXED CONCRETE CO., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. BCV-20-102375

**DECLARATION OF DAMMION
MYLES IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: July 10, 2023

Hearing Time: 8:30 a.m.

Judge: Hon. Bernard Barmann, Jr.

Courtroom: Div. H

Action Filed: October 9, 2020

Trial Date: Not Set

1 I, Dammion Myles, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Preliminary
4 Approval of Class Settlement and in support of my application for a Class Representative
5 Service Payment.
6

7 2. I have personal knowledge of all the facts stated herein. I could and would competently
8 testify under oath to these facts in court if requested to do so.

9 3. I worked for the defendants ("Builders Concrete") in California from November of 2019
10 to January 10, 2020. I was classified by Builders Concrete as a non-exempt employee during
11 that time period and, as such, Builders Concrete was obligated to provide me with compliant
12 meal periods and rest breaks, as well as accurate compensation for all time worked. Also, during
13 the hiring process, I was required to undergo a background check.
14

15 4. I retained my attorneys who are experienced in class action litigation and claims against
16 employers for violations of the California Labor Code and the Fair Credit Reporting Act. I have
17 no personal relationship or family ties to my attorneys or any officer of the Court. I am not aware
18 of having any actual or potential conflicts of interest with another class member in this case nor
19 am I aware of having any actual or potential conflicts of interest with ILYM, the settlement
20 administrator. I am not aware of any other pending matter or action asserting claims that will be
21 extinguished or adversely affected by this settlement.
22

23 5. I decided to file this class action lawsuit and be a plaintiff/class representative because
24 I felt that my legal rights as an employee and others like me were violated. For example, from
25 time to time I was unable to take uninterrupted meal and rest breaks as a result of my heavy
26 workload. For instance, I would get calls on my personal cell phone from my supervisors during
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1 my meal and rest breaks in which I was required to work during what should have been my off-
2 duty breaks. Not only was I not paid all the meal and rest break penalty payments I was entitled
3 to for these violations, I was also not paid minimum or overtime wages for the time I spent
4 working off the clock and also I wasn't reimbursed for the costs associated with using my cell
5 phone for work-related purposes. In addition, during the hiring process, I was required to
6 complete an application and sign a consent form permitting a background check to be conducted
7 on me. However, as I have since come to understand, the disclosure forms included extraneous
8 California state law notices and, therefore, rendered the background check non-compliant with
9 the law.
10

11 6. This class action case was filed on October 9, 2020. Before the complaint was filed I
12 spoke to my attorneys several times and discussed how Builders Concrete implemented its
13 company policies and procedures. I also assisted my attorneys in their investigation into my
14 claims by providing them documents and answering their questions. I reviewed the complaint
15 before it was filed and after it was filed I was given access to an electronic file sharing program
16 that alerted me via email when important documents were filed so that I could review them and
17 keep up with the developments in the case which I understood was one of my duties as a class
18 representative. I would also contact my attorneys from time to time if I had any questions about
19 the case.
20
21

22 7. Even though this action is in the process of settling, I was and remain prepared to
23 perform all the duties of a class representative. I understand that as a class representative I have
24 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
25 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
26 benefit of the class members and surrender any right to compromise the group action for an
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1 individual gain.

2 8. I understood that being a plaintiff/class representative in this case meant that I
3 was seeking damages not only for myself but also other current and/or former non-exempt
4 employees working for Builders Concrete in California and also those prospective or actual
5 employees who had a background check performed on them by Builders Concrete. I felt that
6 these individuals were not aware of their labor law rights and even if they were they would
7 probably be apprehensive about speaking up or even simply because of the time, effort and risk
8 involved in filing a class action lawsuit.
9

10 9. I understood that being a part of this lawsuit involved risks. For example, my
11 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
12 pay for all or part of the attorney fees and costs paid by Builders Concrete to defend this lawsuit.
13 Also, I knew there was a risk that future employers, if they ever found out about this lawsuit,
14 could hold it against me or downgrade me as a potential hire. As the only named Plaintiff in this
15 case it would not be difficult for a future employer to become aware that I sued a former
16 employer for labor law violations. Ultimately I decided these risks were worth it and decided to
17 fight for my rights and the rights of others regardless of the risks, time and effort I spent on this
18 case.
19

20 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
21 kept up to date on important developments by reviewing court filings that were made available to
22 me electronically as I described above.
23

24 11. A mediation took place on June 24, 2021 with David Rottman, a well-respected
25 and experienced mediator of wage and hour class actions. The mediation did not lead to a
26 settlement. A second mediation took place on December 7, 2022 with Louis Marlin, another
27

1 well-respected and experienced mediator of wage and hour class actions. After the second all-
2 day mediation session, the parties agreed to settle the action based on a mediator's proposal. I
3 communicated with my attorneys regarding the terms of the settlement which was reached
4 between the parties and understood that I was representing absent class members and therefore
5 wanted the best possible result to be obtained for the class members and I believe a very positive
6 result was in fact achieved via settlement. I reviewed and signed the Memorandum of
7 Understanding on January 2, 2023 and when the final settlement papers were ready, I closely
8 reviewed the Settlement Agreement which I signed on April 10, 2023.

10 12. I have been actively involved with this lawsuit performing the duties described above.
11 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
12 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
13 the settlement process. I estimate that I spent approximately 40-50 hours working on this case
14 up until this point. I believe I have been diligent and have done what is expected of a named
15 plaintiff and a proposed class representative to date, and will continue to do so. I have and
16 always will maintain the best interest of the class members.

18 13. My attorneys explained to me that the settlement process involves a two-step
19 review by the Court to determine whether the settlement is fair before approving the settlement.
20 I know this process also involves notifying all class members of the settlement terms and of their
21 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
22 settlement.

24 14. I believe I did the right thing by filing this case on behalf of the class members who,
25 subject to court approval, are in line to receive monetary payments as a result of this case and
26 settlement. This is money they may never have ever gotten if I did not pursue this action on their

1 behalf. I feel significant personal satisfaction to know that I played a role in the class members
2 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
3 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
4 compensation for the work I performed and the risks I undertook.

5
6 15. As part of the settlement it was necessary for me to sign a general release of all
7 claims I may have against Builders Concrete. I believe the Class Representative Service
8 Payment I have requested provides me with some compensation for this agreed release.

9 16. I have not entered into any undisclosed agreements nor have I received any
10 undisclosed compensation in this case. The only compensation I will receive is whatever amount
11 the Court approves as a service award, as well as my share as a class member of the settlement
12 fund.

13
14 17. In light of all the time and effort I have spent on this case, the risk I undertook by
15 suing a former employer, the exposure to being responsible for paying Builders Concrete's costs
16 in the event we did not win the case, the reputational risk that future employers may hold this
17 lawsuit against me, the general release, and in light of the size of the settlement, I believe the
18 request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

21
22 Executed on May 21, 2023, at Visalia,ca
(city, state)

23
24  (May 21, 2023 11:38 PDT)

25 Dammion Myles