

Benjamin H. Haber (SBN 315664)
benjamin.haber@wilshirelawfirm.com
Daniel J. Kramer (SBN 314625)
daniel.kramer@wilshirelawfirm.com
Bradford Smith (SBN 345879)
bradford.smith@wilshirelawfirm.com

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

NELSON CHAVIRA, MICHAEL BIRD,
MICHAEL MCCREVEN, and MICKEY
LATHUM, individually, and on behalf of all
others similarly situated,

Plaintiff,

v.

MARK III CONSTRUCTION, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 34-2021-00308972-CU-OE-GDS

**CLASS & PAGA REPRESENTATIVE
ACTION**

*[Assigned for all purposes to: Hon Jill Talley,
Dept. 23]*

**DECLARATION OF PLAINTIFF
NELSON CHAVIRA IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DECLARATION OF PLAINTIFF NELSON CHAVIRA

I, Nelson Chavira, declare as follows:

1. I am an adult resident of the State of California, and, if called as a witness in this action, I would testify truthfully to the matters described in this declaration. All of the matters described in this declaration are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I make this declaration entirely of my own free will and choice. I have not been promised any benefit for doing so, and I have not been pressured into giving this declaration. Before signing this declaration, I was given the opportunity to review it, make changes, and verify the accuracy of its contents.

3. I am a former employee of Mark III Construction, Inc. ("Defendant"). I worked for Defendant from approximately January 2019 to approximately May 2021 as an hourly-paid, non-exempt employee. Throughout the entirety of my employment, I was subject to all of Defendant's policies and practices that have been alleged as unlawful in the Class Action Complaint and Private Attorneys General Act ("PAGA") Notice sent to Defendant and the Labor & Workforce Development Agency ("LWDA").

4. I initiated this lawsuit because I was concerned that I was not paid properly for all the hours that I worked, and I was not provided all of my meal and rest breaks.

5. By originating this lawsuit as a class representative, I hoped that I might be able to change Defendant's policies to better protect the working conditions of my co-workers. I also understood that it was my duty as a class representative to represent the best interests of the class, know about the lawsuit, assist my attorneys, and keep updated on the case.

6. I have invested a lot of personal time and energy into this lawsuit. As detailed more fully below, I have spent approximately 40 hours on this case. I made it a priority to be actively involved because I wanted to do everything I can to assist my attorneys in prosecuting this case.

7. Throughout this case, I spent a lot of time on the phone with my attorneys to get updates about the case and provide them with information. For example, during some of the phone calls, my attorneys and I were able to identify instances when I was not paid correctly.

1 Additionally, leading up to the mediation in June 2024, I had multiple lengthy phone calls with
2 Wilshire Law Firm regarding the claims at issue and what was to transpire at the mediation.
3 Additionally, I also followed up by calling my attorneys and provided them with further
4 information following the mediation.

5 8. Throughout the case, I also spent time looking for documents relevant to the case to
6 send to my attorneys. I spent numerous hours looking for these documents, including when I first
7 contacted my attorneys, before my attorneys filed the case, and before my case was mediated. I
8 also spent time reviewing legal documents in this case, including the retainer and settlement
9 agreement and discussed, in detail, the terms with my attorneys.

10 9. Additionally, I made myself fully available on the day of mediation and was in
11 continuous contact with my attorneys to assist with any questions or issues that may have arisen.

12 10. I believe the settlement is a good settlement and I would recommend that the Court
13 approve it because I believe that this settlement is fair, adequate, and reasonable. I am glad that I
14 had the opportunity to represent the class in this lawsuit and that I was able to recover money
15 through a settlement for the class.

16 11. I did not make the decision to file a class action lightly. I was concerned by the
17 attention a publicly filed lawsuit, and especially a class action, would attract. My name would be
18 associated with a lawsuit that I filed against my former employer. I am mindful that prospective
19 employers might find out that I sued Defendant. Nevertheless, I felt that important rights were at
20 stake that hurt everyone, and something ought to be done about it.

21 12. I also understand that there was financial risk in bringing this lawsuit. For example,
22 I knew that if I did not prevail in this lawsuit that I could potentially be responsible for Defendant's
23 attorneys' fees and costs.

24 13. I understand that the settlement agreement provides a service payment to me of up
25 to \$10,000.00. I believe this amount is fair compensation for my time and effort on this case, for
26 helping to prosecute this case, and the risks with respect to my future employment. In addition,
27 the settlement requires that I enter into a general release, which I understand is broader than the
28

release that will bind other class members. I am receiving no compensation additional to that provided for in the settlement.

14. Based on my involvement in this case and the benefits provided to my former co-workers, I can say I helped stand up for the other workers who were too afraid to say anything to management because they did not want to risk losing their jobs or risk the stigma of suing an employer. I was not afraid to take that risk because I strongly care about helping out my former co-workers.

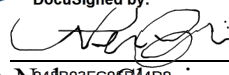
15. I reviewed (and ultimately signed) the Class Action and PAGA Settlement Agreement in full and my attorneys answered all the questions I had. I believe the settlement terms and allocations are fair, adequate, and reasonable given the strength of the class claims and Defendant's defenses.

16. I have no conflicts of interest with any class member or the Settlement Administrator, ILYM Group, Inc.

17. I am not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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

Executed on 5/14/2025, at Lodi, California.

DocuSigned by:

 Nelson Chavira

Chavira, et al. v. Mark III Construction, Inc., et al.
34-2022-00314710-CU-OE-GDS

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

On May 14, 2025, I served the foregoing **DECLARATION OF PLAINTIFF NELSON CHAVIRA IN SUPPORT OF PLAINTIFFS MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Lisa Bradner
LB@castleemploymentlaw.com
 Tim Del Castillo
tdc@castleemploymentlaw.com
admin@castleemploymentlaw.com
CASTLE LAW CALIFORNIA EMPLOYMENT COUNSEL, PC
 2999 Douglas Blvd., Suite 180
 Roseville, CA 95661
 Telephone: (916) 587-9106

Attorneys for Defendant

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on May 14, 2025, at Los Angeles, California.


Rebecca Padilla