

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (SBN 068687)

Kyle R. Nordrehaug (SBN 205975)

Aparajit Bhowmik (SBN 248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858) 551-1223

Facsimile: (858) 551-1232

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

TAMIKA WALKER and SHANNON
PEETE, individuals, on behalf of themselves
and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

DJO, LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants

Case No. 22CV400335

**DECLARATION OF SHANNON
PEETE IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: August 10, 2023

Hearing Time: 1:30 p.m.

Judge: Hon. Sunil R. Kulkarni

Dept: 1

Date Filed: July 13, 2022

Trial Date: Not set

1 I, Shannon Peete, 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 defendant DJO, LLC ("DJO") in California from September of 2019 to
10 April of 2022 and was classified by DJO as a non-exempt employee during that time period.

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

19 5. I decided to file this class action lawsuit and be a plaintiff/class representative because
20 I felt that my legal rights as an employee and others like me were violated. For example, my
21 wage statements were inaccurate for multiple reasons including the total number of overtime
22 hours I worked. Also, I was paid non-discretionary bonus payments from time to time but these
23 payments were not factored into my regular rate for purposes of calculating my correct overtime
24 rate and I was underpaid as a result. I was also contacted by DJO on my personal cell phone for
25 work-related purposes on a regular basis but was not reimbursed by DJO for the cell phone
26
27

1 expenses I incurred for the benefit of the company.

2 6. Before the complaint was filed I spoke to my attorneys several times and discussed how
3 DJO implemented its company policies and procedures. I also assisted my attorneys in their
4 investigation into my claims by providing them documents and answering their questions. I
5 reviewed the complaint before it was filed and after it was filed I was given access to an
6 electronic file sharing program that alerted me via email when important documents were filed
7 so that I could review them and keep up with the developments in the case which I understood
8 was one of my duties as a class representative. I would also contact my attorneys from time to
9 time if I had any questions about the case.
10

11 7. Even though this action is in the process of settling, I was and remain prepared to
12 perform all the duties of a class representative. I understand that as a class representative I have
13 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
14 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
15 benefit of the class members and surrender any right to compromise the group action for an
16 individual gain.
17

18 8. I understood that being a plaintiff/class representative in this case meant that I
19 was seeking damages not only for myself but also other current and/or former non-exempt
20 employees working for DJO in California. I felt that these individuals were not aware of their
21 labor law rights and even if they were they would probably be apprehensive about speaking up or
22 even simply because of the time, effort and risk involved in filing a class action lawsuit.
23

24 9. I understood that being a part of this lawsuit involved risks. For example, my
25 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
26 pay for all or part of the attorney fees and costs paid by DJO to defend this lawsuit. Also, I knew
27

1 there was a risk that future employers, if they ever found out about this lawsuit, could hold it
2 against me or downgrade me as a potential hire. As one of only two named Plaintiffs in this case
3 it would not be difficult for a future employer to become aware that I sued a former employer for
4 labor law violations. Ultimately I decided these risks were worth it and decided to fight for my
5 rights and the rights of others regardless of the risks, time and effort I spent on this case.
6

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

10 11. A mediation took place on February 2, 2023 with Mark Rudy, a well-respected
11 and experienced mediator of wage and hour class actions. After the all-day mediation the parties
12 were able to reach an agreement to settle the action based on a mediator's proposal. I
13 communicated with my attorneys regarding the terms of the settlement which was reached
14 between the parties and understood that I was representing absent class members and therefore
15 wanted the best possible result to be obtained for the class members and I believe a very positive
16 result was in fact achieved via settlement. I reviewed and signed the Memorandum of
17 Understanding on April 17, 2023 and when the final settlement papers were ready, I closely
18 reviewed the Settlement Agreement which I signed on May 30, 2023.
19

20 12. I have been actively involved with this lawsuit performing the duties described above.
21 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
22 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
23 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
24 up until this point. I believe I have been diligent and have done what is expected of a named
25 plaintiff and a proposed class representative to date, and will continue to do so. I have and
26

1 always will maintain the best interest of the class members.

2 13. My attorneys explained to me that the settlement process involves a two-step
3 review by the Court to determine whether the settlement is fair before approving the settlement.
4 I know this process also involves notifying all class members of the settlement terms and of their
5 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
6 settlement.
7

8 14. I believe I did the right thing by filing this case on behalf of the class members who,
9 subject to court approval, are in line to receive monetary payments as a result of this case and
10 settlement. This is money they may never have ever gotten if I did not pursue this action on their
11 behalf. I feel significant personal satisfaction to know that I played a role in the class members
12 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
13 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
14 compensation for the work I performed and the risks I undertook.
15

16 15. As part of the settlement it was necessary for me to sign a general release of all
17 claims I may have against DJO. I believe the Class Representative Service Payment I have
18 requested provides me with some compensation for this agreed release.
19

20 16. In light of all the time and effort I have spent on this case, the risk I undertook by
21 suing a former employer, the exposure to being responsible for paying DJO's costs in the event
22 we did not win the case, the reputational risk that future employers may hold this lawsuit against
23 me, the general release, and in light of the size of the settlement, I believe the request for \$10,000

24 ///

25 ///

26 ///

1 as a Class Representative service payment is fair and reasonable.

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

4 Executed on Jul 14, 2023, at San Jose, Ca
5 (city, state)

6 *Shannon Peete*
7 Shannon Peete (Jul 14, 2023 18:28 PDT)

8 Shannon Peete
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28