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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

KENNETH WILBURN, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

CONCRETE, INC., d/b/a KNIFE RIVER
CONSTRUCTION, a California corporation,
MDU RESOURCES GROUP, INC., d/b/a
KNIFE RIVER CONSTRUCTION, a Delaware
corporation, KNIFE RIVER CONSTRUCTION,
a Delaware corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No.: STK-CV-UOE-2021-10183
[Consolidated with STK-CV-UOE-2022-
0002317]

CLASS ACTION

[Assigned for all purposes to Judge Robert T.
Waters, Dept. 11B]

**DECLARATION OF KENNETH
WILBURN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement; Memorandum of
Points and Authorities; and Declarations of
Justin F. Marquez, Ryan L. Eddings, and Julie
Green; and [Proposed] Order]

PRELIMINARY APPROVAL HEARING.

Date: ~~August 11, 2023~~

Time: ~~1:30 p.m.~~

Dept: 11B

SEP - 8 2023

Complaint filed: October 29, 2021

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 Concrete, Inc. dba Knife River Construction (“Knife River”). I worked at Knife River from approximately July 2020 to January 2021 as an hourly-paid, non-exempt employee. Throughout the entirety of my employment, I was subject to all of Knife River’s policies and practices that have been alleged as unlawful in the Class Action Complaint (“Complaint”) and Private Attorneys General Act (“PAGA”) Notice sent to Knife River and the Labor & Workforce Development Agency (“LWDA”).

4. I have actively participated in the litigation of this action. Prior to the commencing of this case, I provided Wilshire Law Firm and my attorneys a detailed account of the facts related to my employment with Knife River, including, but not limited to, my belief that Knife River had a policy and practice of not providing its employees with California compliant meal and rest periods or paying them all corresponding meal and rest break premiums, and failing to reimburse me and others for necessary business expenses. Additionally, I provided my counsel with information and wage statement documentation in support of the claims brought against Knife River. These documents, along with the anecdotes I shared regarding my employment, assisted my attorneys in understanding the policies and practices at Knife River. I also regularly communicated with my attorneys and staff members of Wilshire Law Firm via telephone and text messages.

5. My attorneys explained to me the risks and benefits of bringing forward a class

1 action matter. I understood the risks, both professionally and financially, associated with pursuing
2 a class action case and acting as the Class Representative. I further understood that pursuing the
3 case as a class action, rather than individually, meant that it would take substantially longer as a
4 result of the multi-step approval process as mandated by the California Courts. Although I was
5 made aware that there was a possibility that I could receive nothing in the end, I believed that it
6 was important to ensure that Knife River followed the law with respect to all of its hourly-paid,
7 non-exempt employees. Additionally, I understood that it was my responsibility to act in the best
8 interests of the Class and not just myself. In that respect, I understood my duties and
9 responsibilities to the proposed Class and carried out and will continue to carry out those duties as
10 necessary.

11 6. Throughout the course of the litigation, I maintained constant communication with
12 my attorneys and discussed pertinent matters relevant to the lawsuit. I asked questions when I
13 wanted to know what was being done to advance the interests of the Class or simply wanted an
14 update regarding the case. I understood that a recovery would not only benefit me but would
15 benefit my fellow coworkers as well. At all times, I made myself available to answer any questions
16 that my attorneys had about my employment.

17 7. This was especially true leading up to and during the mediation that took place on
18 October 31, 2022. In preparation for the mediation, I had extensive conversations with my
19 attorneys regarding the nuanced issues that we were going to advance during the negotiation
20 process with the mediator. During the mediation session, I was available to speak with my
21 attorneys, answer any questions that arose, and provide any additional documentation that was
22 necessary to assist the settlement discussions.

23 8. On or about April 2023, I reviewed the Class Action and PAGA Settlement
24 Agreement and Class Notice (“Settlement Agreement”) in full and discussed all the terms with my
25 attorneys. My attorneys answered all the questions I had regarding the Settlement Agreement. I
26 believe the settlement terms and allocations are fair, adequate, and reasonable given the strength
27 of the class claims and Knife River’s defenses. That same day, I signed the Settlement Agreement.

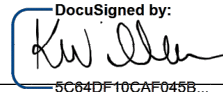
28 9. I estimate that I spent approximately 30 hours searching for and collecting

documents related to my employment, speaking with my attorneys throughout the litigation, helping my attorneys prepare for mediation, discussing the particulars and reasonableness of the settlement, and reviewing/signing documents related to the settlement.

10. I do not have any interest, financial or otherwise, in the proposed cy pres recipient, Legal Aid at Work or the third-party administrator, CPT Group, Inc.

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

Executed on 4/7/2023 at Stockton, California.

DocuSigned by:


SC64DF10CAF045B...
Kenneth Wilburn

WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

PROOF OF SERVICE

Wilburn v. Concrete, Inc., et al.
STK-CV-UOE-2021-0010183

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Sandy S. Sespene, 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 ssespene@wilshirelawfirm.com.

On **July 20, 2023**, I served the foregoing **DECLARATION OF KENNETH WILBURN IN SUPPORT OF PLAINTIFF'S 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:

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Attorneys for Defendants
Concrete, Inc., d/b/a Knife River and MDU Resources Group, Inc.

- (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.
- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

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

Executed on July 20, 2023, at Los Angeles, California.



Sandy S. Sespene