

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Monnett De La Torre (State Bar #272884)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619)599-8292

Facsimile: (619) 599-8291

jlapuyade@jcl-lawfirm.com

mdelatorre@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)

Jackland K. Hom (State Bar #327243)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619)255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.com

jackland@zakaylaw.com

Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

GABRIEL MENDEZ, GEORGE GOSCH,
JOHN DIAN, MICHAEL KNIGHTON,
individuals, on behalf of themselves and on
behalf of all person similarly situated,

Plaintiffs,

vs.

BONDZ, INC., a California Corporation; and
DOES 1-50, Inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0007486

**DECLARATION OF JOHN DIAN IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: September 14, 2023

Time: 9:00 a.m.

Judge: Hon. George J. Abdallah, Jr.

Dept.: 10A

1 I, JOHN DIAN, declare as follows:

2 1. I am over the age of eighteen, a California resident, Plaintiff and Proposed Class
3 Representative in the above-entitled matter. I submit this declaration in support of Plaintiff's Motion
4 for Final Approval of Class Action and PAGA Settlement and in support of Plaintiffs' Motion for Class
5 Counsel Fees, Litigation Expenses Payment and Incentive Award. I have personal knowledge of all the
6 facts stated herein. I could and would competently testify under oath to these facts in court if requested
7 to do so.

8 2. I retained Class Counsel in February of 2022. In February 2023, my counsel filed an
9 amended complaint to an existing action against Defendant Bondz, Inc. ("Defendant") that added me as
10 a Plaintiff. This case is filed on behalf of myself, the other named plaintiffs, and all individuals who
11 are or were employed by Defendant as truck driver employees in California at any time from September
12 9, 2016 through November 9, 2020.

13 3. I worked for Defendant as a truck driver from approximately November 2016 to
14 November 2020. At all times during my employment with Defendant, I was entitled to legally mandated
15 meal and rest periods, minimum wages, and to be furnished with accurate wage statements as required
16 by California law.

17 4. I joined the case because I believed my rights as an employee were violated by Defendant
18 and also the rights of other employees that worked for Defendant. Among other claims, I believe
19 Defendant failed to pay for all time worked, failed to provide compliant meal and rest periods, failed to
20 furnish accurate itemized wage statements, and failed to pay all wages upon separation.

21 5. Before I joined the case as a plaintiff and Class Representative, I spoke at length with my
22 attorneys. We discussed my work experience and how company policies were applied to me and other
23 employees. I provided the attorneys with documents they requested. We reviewed the documents
24 together and asked and answered many questions regarding my experience working for Defendant, the
25 litigation process, and about class actions generally.

26 6. During these conversations, I learned about my responsibilities as a plaintiff in the lawsuit
27 and as proposed a Class Representative. I understood that pursuing this action as a class action rather
28 than merely seeking my individual claims substantially increased the risk to me. Those risks included

1 the possibility of being held liable for Defendant's attorneys' fees and costs in a complex class action if
2 I lost the case. I also understood that as a Class Representative, I would be under increased scrutiny by
3 the attorneys and the Court because I needed to prove that I was an adequate class representative.
4 Further, I understood that I would lose some autonomy over my individual claims that I could not make
5 decisions for my sole benefit and that I needed to make every litigation decision with the best interests
6 of the Settlement Class in mind.

7 7. I also understood that pursuing this litigation created a very public record of my grievances
8 with Defendant which produced the risk that a future employer could hold it against me that I sued a
9 former employer.

10 8. I also knew that I was making a sacrifice in that I could have pursued my claims only on
11 an individual basis, likely obtaining a recovery greater than the portion of the class settlement I stand to
12 receive from this settlement. My attorneys explained to me that the net settlement value of my individual
13 claims may be greater than my ultimate recovery from the net class settlement amount.

14 9. Notwithstanding these risks and sacrifices, I decided to go through with the case because
15 I believed violations occurred and most employees would not know what their rights are and even if
16 they did, they would be apprehensive to file a lawsuit against their employer for fear of retaliation.

17 10. During the lawsuit I communicated on a regular basis with my attorneys. I reviewed status
18 updates from my attorneys and court filings on a regular basis, and spoke to my attorneys on the phone,
19 because I wanted to keep up with developments in the case which I understood was one of my duties as
20 a class representative.

21 11. **Review and Approval of Settlement:** A mediation was held on October 6, 2022. Even
22 though I could not attend, I was available by telephone to speak with my attorneys and did speak with
23 them regarding the mediation before it took place, as well as during the mediation itself. I also spoke
24 with my attorneys following the mediation and regularly through the months of continued negotiations.

25 12. I was very satisfied with the terms of the settlement that was agreed to by the parties. I
26 reviewed and signed the Memorandum of Understanding on October 21, 2022, and when the settlement
27 papers were ready, I again spoke with my attorneys and reviewed the settlement agreement which I
28 signed on February 24, 2023.

13. **Participation:** Since I retained Class Counsel approximately nineteen months ago, I have been actively involved with this class action lawsuit performing the duties described above. While I did not keep formal time records, I was in regular contact with my attorneys, reviewed important court filings, and spent considerable time on the issues presented during the litigation and in the settlement process. I estimate that I spent approximately 15-20 hours working on this case.

14. Also, my attorneys explained to me that the settlement process involved a two-step review by the Court to determine whether the settlement was fair before ordering that the settlement be funded and paid. I knew this process also involved notifying all class members of the settlement terms and of their rights to make a claim for their settlement share, to opt out of the settlement or to object to the settlement.

15. Ultimately, I believe I did the right thing in pursuing this case on behalf of the class who now stand to receive substantial monetary payments because of this case and settlement. I also believe that the requested Incentive Award in the amount of \$5,000 from the settlement is fair compensation for the (1) the broad general release I executed, (2) the work I performed, (3) the sacrifices made not pursuing this case individually, and (4) the risks I undertook.

16. In light of all the time and effort I have spent on this case, the sacrifice I have made, the risks I undertook by suing a former employer, the exposure to being responsible for paying Defendant's costs in the event we did not win the case, and in light of the size of the settlement, I believe the request for \$5,000 as a service award is fair and reasonable.

17. Further, I support Class Counsels' requested Attorneys' Fee in the amount of \$60,000 and Litigation Expenses in the amount of \$15,000.00.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on Aug 18, 2023, at North Fork, California.

By: John Dian (Aug 18, 2023 10:31 PDT)

JOHN DIAN