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Attorneys for Plaintiff Danny Drake

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

DANNY L. DRAKE and MARIO PIZANA,
individually and on behalf of all similarly
situated employees, and DANNY DRAKE on
behalf of all other aggrieved employees of
DEFENDANTS in the State of California,

Plaintiffs,

v.

MID VALLEY DISPOSAL, LLC, MID
VALLEY DISPOSAL, INC; and DOES 1
THROUGH 50, inclusive,

Defendants.

Case No.: 16CECG01653

**DECLARATION OF DANNY DRAKE IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: September 24, 2019
Time: 3:30 p.m.
Judge: Hon. Rosemary T. McGuire
Dept.: 403

Complaint Filed: May 20, 2016

I, DANNY DRAKE, declare as follows:

1. I am the named Plaintiff in the present class action against Mid Valley Disposal, LLC and Mid Valley Disposal, Inc. (collectively "Mid Valley").

2. I have personal knowledge of all the facts stated in this declaration, and if called as a witness, I could and would competently testify to the information set forth herein.

3. I am a former employee of Mid Valley and worked for Mid Valley from the end of 2011 to in or around October 2015. During the time that I worked for Mid Valley I was subject to Mid Valley's

1 employment policies, including Mid Valley's policies regarding the automatic deduction of meal periods,
2 which was uniformly applied to all employees working on a waste retrieval route.

3 4. Starting in the beginning or early part of my employment with Mid Valley, Mid Valley had
4 a policy of automatically noting a 30-minute meal break and deducting 30 minutes from my daily hours
5 worked. I spoke to several other employees assigned to waste retrieval routes about this policy and
6 practice, and everyone that I spoke to stated that the same policy and practice applied to them as well.

7 5. Shortly after I started working for Mid Valley, Mid Valley scheduled a meeting for
8 employees working on waste retrieval routes. At that meeting, Mid Valley discussed its policy of recording
9 a 30 minute meal break for all employees on waste retrieval routes. The policy applied to all employees
10 on waste retrieval routes, and all employees were required to sign a form acknowledging the policy. At
11 that meeting, I told my supervisors that I did not agree with the policy, because I believed it was unfair to
12 deduct 30 minutes for meal breaks when we did not receive a full 30 minutes for our meal breaks. My
13 supervisors informed me that employees had to sign the policy if they wanted to continue working for
14 Mid Valley.

15 6. Attached as **Exhibit 1** and **Exhibit 2** are true and correct copies of the forms titled
16 "Acknowledgement of Automatic Meal Period Scheduling System and Procedure for Reporting Changed
17 Meal Period," which reflect Mid Valleys policies regarding the automatic recording and deduction of meal
18 periods from employees' hours. **Exhibit 1** and **Exhibit 2** represent the policy that I and other employees
19 working on trash retrieval routes were required to sign.

20 7. Attached as **Exhibit 3** are true and correct copies of a sample of wage statements that I
21 received from Mid Valley. The wage statements evidence Mid Valley's policy and practice of recording
22 30 minute meal breaks and deducting 30 minutes from my hours. The time reflected on the wage
23 statements does not accurately reflect the actual times of my breaks.

24 8. Over the course of my employment, I spoke to several other employees of Mid Valley, who
25 verified that their wage statements similarly had 30 minutes deducted for meal breaks regardless of
26 whether they actually received 30 minute meal breaks.

27 9. Attached as **Exhibit 4** is a true and correct copy of the Employee Handbook policies that
28 applied uniformly to all employees on trash retrieval routes from the beginning of my employment until

1 the handbook was revised in 2013. [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 10. Attached as **Exhibit 5** is a true and correct copy of the Employee Handbook policies that
5 applied uniformly to all employees on trash retrieval routes from 2013 until the handbook was revised in
6 2015. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 11. Attached as **Exhibit 6** is a true and correct copy of the Employee Handbook policies that
10 applied uniformly to all employees on trash retrieval routes from 2015 until the end of my employment
11 for Mid Valley. [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 12. I decided to pursue wage and hour claims against Defendants in the fall of 2015. I met with
16 my attorneys and explained to them my experience working for Defendants. At the time I met with my
17 attorneys, I knew that other non-exempt employees performing waste retrieval duties and helpers were
18 also affected by the wage and hour violations that I claimed against Defendants.

19 13. At that time, I also agreed to represent all other similarly situated current and former non-
20 exempt employees performing waste retrieval duties in the State of California for Defendants and to obtain
21 relief for the entire class. I also agreed to consider the interests of the class just as I would consider my
22 own interests.

23 14. When I agreed to represent other non-exempt employees of Defendants performing waste
24 retrieval duties in the State of California, I understood it was my duty to be readily available and to
25 participate actively in this case. I knew that I would be required to review documents, search for
26 documents and produce them to my attorneys, answer written interrogatories and questions, potentially
27 answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary.

28 15. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

1 16. I realized I was taking a significant amount of risk in filing class action claims against
2 Defendants. I understood that as a named plaintiff in this class action lawsuit I was taking risks other
3 workers were not. For example, I understood I might be responsible for the payment of Defendants' court-
4 awarded litigation costs in the event I did not prevail in the litigation.

5 17. I also knew that when I decided to search for employment outside of working for
6 Defendants, my name could easily be located on the Internet or through other searches and that any
7 prospective employer may find out that I had sued my former employer as a class representative.

8 18. Even though I knew I was taking risks, I knew I had to do what I believed was right and
9 pursue claims on behalf of myself and other workers and attempt to recover the wages and moneys owed
10 to us.

11 19. I am not aware of any personal claim I have against Defendants that would be inconsistent
12 with the interests of the Class. I am not aware of the existence of any conflict of interest between myself
13 and the Class.

14 20. Since I met with my attorneys in 2015 until now, and for over three and a half years, I have
15 kept aware of the status of the lawsuit and provided my attorneys with documents and information used
16 by them in the litigation. I have spent large amounts of time and effort pursuing my claims and the claims
17 of the other similarly situated workers from the time I retained my attorneys to the present date.

18 21. After retaining my attorneys, I spent hours in meetings and on the phone discussing the
19 facts of my case with my attorneys Graham Hollis, Vilmarie Cordero, Caroline Massey, and Paloma
20 Moreno-Acosta, and Nathan Reese. I spent several hours discussing the facts related to my work with
21 Defendants, including discussing my job duties and responsibilities, my job position, and the hours and
22 days I worked, and how I was compensated.

23 22. I also spent several hours looking for documents related to my claims against Defendants
24 that I had kept and sent them to my attorneys. I further spent hours on telephone calls with Ms. Cordero,
25 Ms. Massey, Ms. Acosta, and Mr. Reese reviewing and discussing the documents I provided.

26 23. After Defendants produced a copy of my employment file, I had various telephone
27 conferences with my attorneys to discuss the contents of these documents and review them for accuracy.
28 I also spent time reviewing all the documents I signed during my employment at Defendants.

1 24. In or around April of 2017, I was informed that Defendants had noticed my deposition for
2 May 18, 2017. I spent several hours meeting with my Ms. Cordero both on the telephone and in person in
3 preparation for the deposition.

4 25. On May 18, 2017, I traveled from Fresno to Sacramento to be deposed by Defendants'
5 attorneys. The deposition began at 10:06 a.m. and continued until 5:19 p.m., after which I traveled back
6 to my home in Fresno.

7 26. My attorneys informed me that Defendants agreed to participate in mediation to resolve
8 this class action case. I believed it was in the best interest to attempt to resolve this case early instead of
9 engaging in additional costly and time-consuming litigation in court. I agreed to participate in a mediation
10 session and spent many hours discussing the details of the case with Ms. Acosta and Ms. Cordero in
11 preparation for the mediation, which was scheduled for June 8, 2017. As part of the mediation preparation,
12 I once again reviewed documents Defendants gave to my attorneys and provided them with details of my
13 personal experience working with Defendants. I travelled from Fresno to attend the mediation session in
14 San Francisco, but we were unable to reach an agreement to settle the case at the mediation.

15 27. I further provided responses to written discovery requests sent by Defendants, including
16 responses to form and special interrogatories, requests for production of documents, and requests for
17 admissions. I spent several hours reviewing documents and working with my Ms. Massey to prepare
18 responses to these requests.

19 28. I was further alerted that I would be required to sit for another day of deposition testimony.
20 I met with Ms. Massey both in phone and in person in order to prepare for sitting for a second day of
21 deposition testimony. On April 20, 2018, I sat for another day of deposition testimony, which began at
22 10:15 a.m. and concluded at 4:52 p.m.

23 29. In August of 2019, Mr. Reese explained to me the content of the settlement agreement, and
24 I had an opportunity to review it. I spent a significant amount of time discussing and reviewing the
25 settlement agreement with my attorney before signing it.

26 30. It is my opinion that the proposed class action settlement achieved is fair, adequate and
27 reasonable.

28 ///

1 31. I believe I have put myself at significant risk by pursuing this lawsuit and I feel my
2 participation as one of the Class Representatives in this class action lawsuit could inhibit my ability to
3 seek gainful employment in the future.

4 32. I have always considered the interests of the class just as I would consider my interests and
5 placed the interests of the class above my own since I started this class action case.

6 33. Over the years I estimate I have spent over 100 hours working with my lawyers for almost
7 three and half years, performing the various tasks described in this declaration, including actively
8 participating in the mediation, responding to written discovery requests, sitting for multiple days of
9 deposition testimony, and reviewing the class action settlement agreement, not only for my own benefit
10 but for the benefit of all other class members. To this date, I continue to regularly communicate with my
11 attorneys about the progress of the case.

12 34. I am requesting the Court approve a \$10,000 service award. I believe this amount is very
13 reasonable considering the significant amount of work, time and effort I have spent with my attorneys to
14 achieve this settlement. The time and service I provided to the class resulted in the parties agreeing to
15 settle the case and is a positive outcome to the entire class, who will receive a share of the settlement funds
16 in this case.

17 35. I also believe the amount of the class representative service award is very reasonable
18 considering the financial and professional risks I took by bringing a class action lawsuit against my former
19 employer and the risk of not prevailing in the lawsuit and being responsible for the payment of costs to
20 Defendants.

21 36. Finally, I believe the amount of the class representative service award is fair and reasonably
22 because I have agreed to a general release, which is broader in scope than the release for other class
23 members.

24 37. I have been extremely pleased with my attorneys' work on this case. I found that they
25 worked effectively to attain the excellent results achieved for the benefit of all class members.

26 38. I am committed to this case and will continue to make myself available as needed in the
27 settlement process.

28 ///

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

3 Executed this ²⁹ day of August, 2019, at Fresno, California.

4
5 By: Danny Drake
6 DANNY L. DRAKE
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EXHIBIT 1

MID VALLEY DISPOSAL

ACKNOWLEDGMENT OF AUTOMATIC MEAL PERIOD SCHEDULING SYSTEM AND PROCEDURE FOR REPORTING CHANGED MEAL PERIOD

Automatic Meal Period Scheduling System

I understand that Mid Valley Disposal ("Company") will be automatically scheduling unpaid meal periods for me as an employee during my shift, as programmed through the Company's automatic time clock system. In accordance with state law, I understand that I will be provided meal and rest periods during my regularly scheduled shift.

As a result of the Company's automatic time clock system, I understand that my unpaid 30-minute meal periods will be automatically noted on my timecard. I understand that state law requires that I take a meal period of no less than 30 minutes whenever I exceed five (5) hours in a work day. The meal period must begin before I exceed five (5) hours of work. Unless I qualify for an exception **and** sign a waiver of my right to a meal period that is also signed by an authorized supervisor, I understand it is my obligation under the law and Company policy to take a meal period of at least 30 minutes within the time identified above. Absent approval from an authorized supervisor, I understand that I am expected to take my meal period during the time noted above.

Duty to Notify Management of Missed Meal Periods

If I am denied an entitled meal period or fail to take a meal period during a shift as required by law and Company policy, I agree to notify my supervisor of this incident within 24 hours and agree to submit a meal period correction form to note my omitted meal period. Following the filing of this form, the Company will review the matter and take appropriate action to address the issue.

Acknowledgment of Meal Period Scheduling System and Procedure

I hereby certify that I fully understand the rules regarding the scheduling of meal periods and the procedure to note any changes to my meal periods and I will comply fully with those rules. I understand that a violation of this rule may subject me to discipline, up to and including termination of employment.

Date 1/22/12

1. [Signature]
Employee Name

[Signature]
Employee Signature

EXHIBIT 2

**ACKNOWLEDGMENT OF AUTOMATIC MEAL PERIOD SCHEDULING SYSTEM AND
PROCEDURE FOR REPORTING CHANGED MEAL PERIOD**

Automatic Meal Period Scheduling System

I understand that Mid Valley Disposal ("Company") will be automatically scheduling unpaid meal periods for me as an employee during my shift, as programmed through the Company's automatic time clock system. In accordance with state law, I understand that I will be provided meal and rest periods during my regularly scheduled shift.

As a result of the Company's automatic time clock system, I understand that my unpaid 30-minute meal periods will be automatically noted on my timecard. I understand that state law requires that I take a meal period of no less than 30 minutes whenever I exceed five (5) hours in a work day. The meal period must begin before I exceed five (5) hours of work. Unless I qualify for an exception and sign a waiver of my right to a meal period that is also signed by an authorized supervisor, I understand it is my obligation under the law and Company policy to take a meal period of at least 30 minutes within the time identified above. Absent approval from an authorized supervisor, I understand that I am expected to take my meal period during the time noted above.

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Acknowledgment of Meal Period Scheduling System and Procedure

I hereby certify that I fully understand the rules regarding the scheduling of meal periods and the procedure to note any changes to my meal periods and I will comply fully with those rules. I understand that a violation of this rule may subject me to discipline, up to and including termination of employment.

Date

7/14/15

Employee Name

Danny D. D. D.

Employee Signature

[Signature]

EXHIBIT 3

DANNY L DRAKE

Company E7489
Number 38
Social Security #
Hire Date 12/5/2011
Period Begin 9/8/2014
Period End 9/14/2014
Check Number -99929357
Check Date 9/19/2014
Division 7
Branch
Department 30
Team

Mid Valley Disposal, Inc.

PTO =36.40 HOURS

15300 W Jensen Ave
Kerman, CA 93630 559-843-2467

Earnings

Description	Location / Job	Rate	Hours/Pieces	Current	Year To Date
Regular		18.25	40.00	730.00	26567.45
Overtime		27.37	11.75	321.65	10498.42
Holiday					584.00
Vacation Payout					857.75
Double Time					18.26
Punch Detail	In	Out	In	Out	In
09/08/2014	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
09/09/2014	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
09/10/2014	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
09/11/2014	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
09/12/2014	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm

Deductions

Description	Current	Year To Date
Fed (M/1) (1041.52)	103.01	3698.73
OASDI (1041.52)	64.57	2364.72
Medicare (1041.52)	15.10	553.04
CA (M/1) (1041.52)	21.86	767.89
CA SDI (1041.52)	10.42	381.44
Direct Deposit 12867XXXX	826.56	30375.12
125 Medical Ins	10.13	384.94
Out	In	Out
04:30 pm		
03:00 pm		
03:15 pm		
03:30 pm		
02:30 pm		

Total Earnings 51.75 1051.65 38525.88
NET PAY 826.56
Total Direct Deposits 826.56
Total Deductions 1051.65 38525.88
Check Amount 0.00 0.00

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Mid Valley Disposal, Inc.

15300 W Jensen Ave
Kerman, CA 93630

Union Bank Of California
CA

11-49
1210

Check Date 9/19/2014

Check Number Memo

Pay No Dollars and No Cents

To the Order of:

7 30
DANNY L DRAKE
5631 N OLINDA AVE
Fresno, CA 93723

38 -99929357
NON NEGOTIABLE



\$*****

Authorized Signature

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PLTF001158

DANNY L DRAKE

Company E8090
 Number 38
 Social Security #
 Hire Date 12/22/2014

Period Begin 7/27/2015
 Period End 8/9/2015
 Check Number -99985829
 Check Date 8/14/2015

Division 202
 Branch
 Department 950
 Team 410

Mid-Valley Disposal LLC

15300 W Jensen Ave
 Kerman, CA 93630 559-843-2467

PTO =19.93 HOURS

Earnings

Description	Location / Job	Rate	Hours/Pieces	Current	Year To Date
Regular		18.75	55.22	1035.38	23325.39
Overtime		28.13	7.07	198.85	8294.70
PTO		18.75	24.00	450.00	1050.00
Holiday					600.00
Punch Detail	In	Out	In	Out	In
07/30/2015	05:00 am	11:00 am	11:30 am	01:30 pm	01:30 pm
07/31/2015	04:58 am	10:58 am	11:28 am	12:41 pm	
08/03/2015	05:00 am	11:00 am	11:30 am	01:30 pm	01:30 pm
08/04/2015	05:01 am	11:01 am	11:31 am	01:31 pm	01:31 pm
08/05/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
08/06/2015	05:00 am	11:00 am	11:30 am	01:30 pm	01:30 pm
08/07/2015	04:58 am	10:58 am	11:28 am	01:28 pm	01:28 pm

Deductions

Description	Current	Year To Date
Fed (M/1) (1662.13)	141.15	3150.59
OASDI (1662.13)	103.05	2039.99
Medicare (1662.13)	24.10	477.09
CA (M/1) (1662.13)	24.16	639.71
CA SDI (1662.13)	14.96	296.11
Direct Deposit 12867XXXX	1354.71	26299.50
125 Medical Ins	22.10	367.10
Out	In	Out
02:07 pm		
03:49 pm		
01:43 pm		
01:45 pm		
02:18 pm		
03:51 pm		

Total Earnings 86.29 1684.23 33270.09 Total Deductions 1684.23 33270.09
NET PAY 1354.71 **Total Direct Deposits** 1354.71 **Check Amount** 0.00 0.00

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Mid-Valley Disposal LLC

15300 W Jensen Ave
 Kerman, CA 93630

Union Bank Of California

16-49-6
 1220

Check Date 8/14/2015

Check Number Memo

Pay No Dollars and No Cents

To the Order of:

202 950 410 38 -99985829
DANNY L DRAKE
 5631 N OLINDA AVE
 Fresno, CA 93723

PAY ONLY
 NON NEGOTIABLE

Authorized Signature

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PLTF001164

K

DANNY L DRAKE

Company E8090
 Number 38
 Social Security #
 Hire Date 12/22/2014

Period Begin 1/12/2015
 Period End 1/18/2015
 Check Number -99995822
 Check Date 1/23/2015

Division 7
 Branch
 Department 30
 Team 303

Mid-Valley Disposal LLC

PTO =14.87 HOURS

15300 W Jensen Ave
 Kerman, CA 93630 559-843-2467

Earnings

Description	Location / Job	Rate	Hours/Pieces	Current	Year To Date
Regular		18.75	40.00	750.00	2400.00
Overtime		28.12	13.75	386.71	1132.03
PTO					300.00
Holiday					300.00
Punch Detail	In	Out	In	Out	In
01/12/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
01/13/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
01/14/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
01/15/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm
01/16/2015	04:30 am	10:30 am	11:00 am	01:00 pm	01:00 pm

Deductions

Description	Current	Year To Date
Fed (M/1) (1125.66)	114.76	396.46
OASDI (1125.66)	69.79	253.30
Medicare (1125.66)	16.32	59.24
CA (M/1) (1125.66)	25.04	81.81
CA SDI (1125.66)	10.13	36.77
Direct Deposit 12867XXXX	889.62	3257.80
125 Medical Ins	11.05	46.65
	In	Out
	03:45 pm	
	03:00 pm	
	04:45 pm	
	03:30 pm	
	03:45 pm	

Total Earnings		53.75	1136.71	4132.03	Total Deductions	1136.71	4132.03
NET PAY	889.62	Total Direct Deposits	889.62	Check Amount	0.00	0.00	

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Mid-Valley Disposal LLC

15300 W Jensen Ave
 Kerman, CA 93630

Union Bank Of California

16-49-6
 1220

Check Date 1/23/2015

Check Number Memo

\$*****

Pay No Dollars and No Cents**To the Order of:**

7 30 303
DANNY L DRAKE
 5631 N OLINDA AVE
 Fresno, CA 93723

38 -99995822
NON NEGOTIABLE

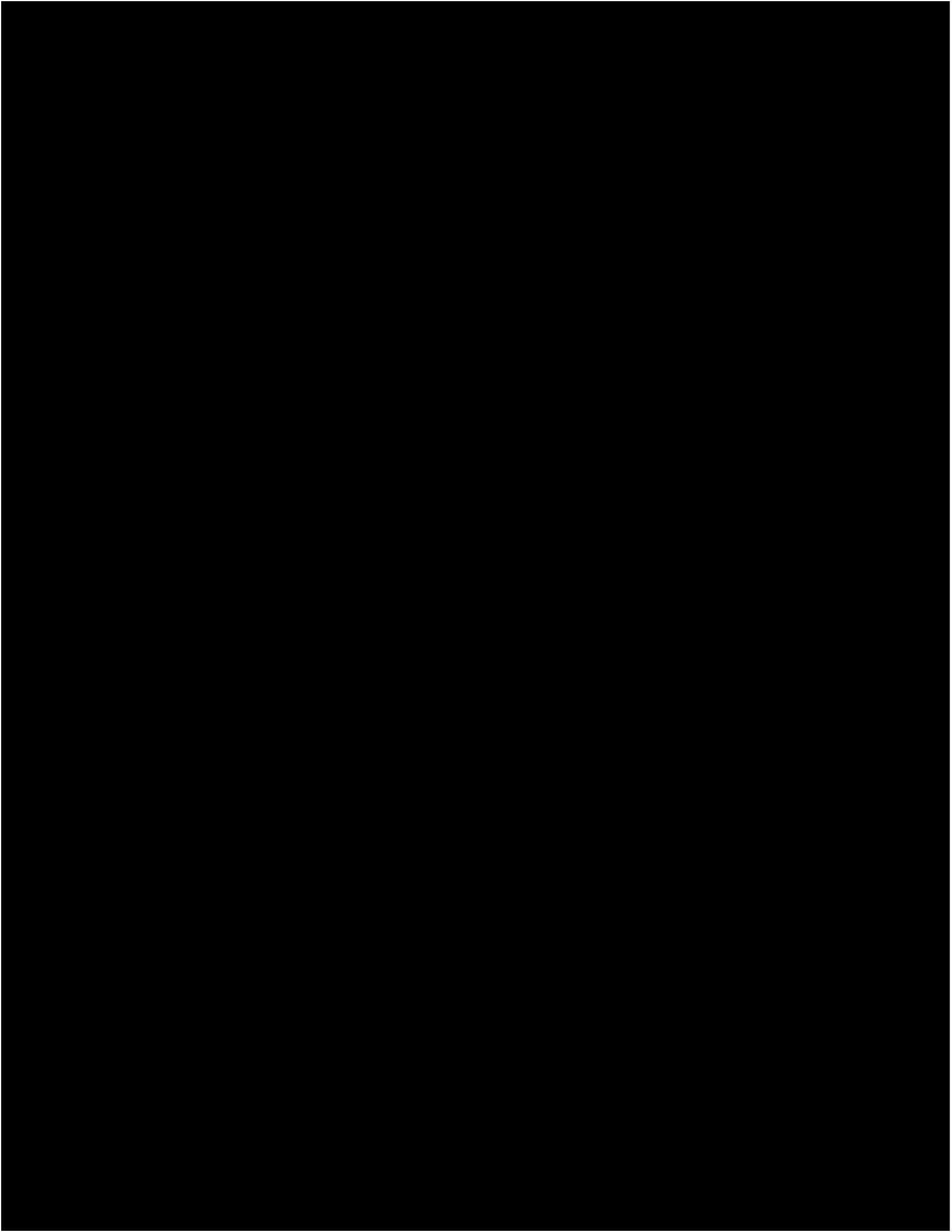


Authorized Signature

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PLTF001172

EXHIBIT 4



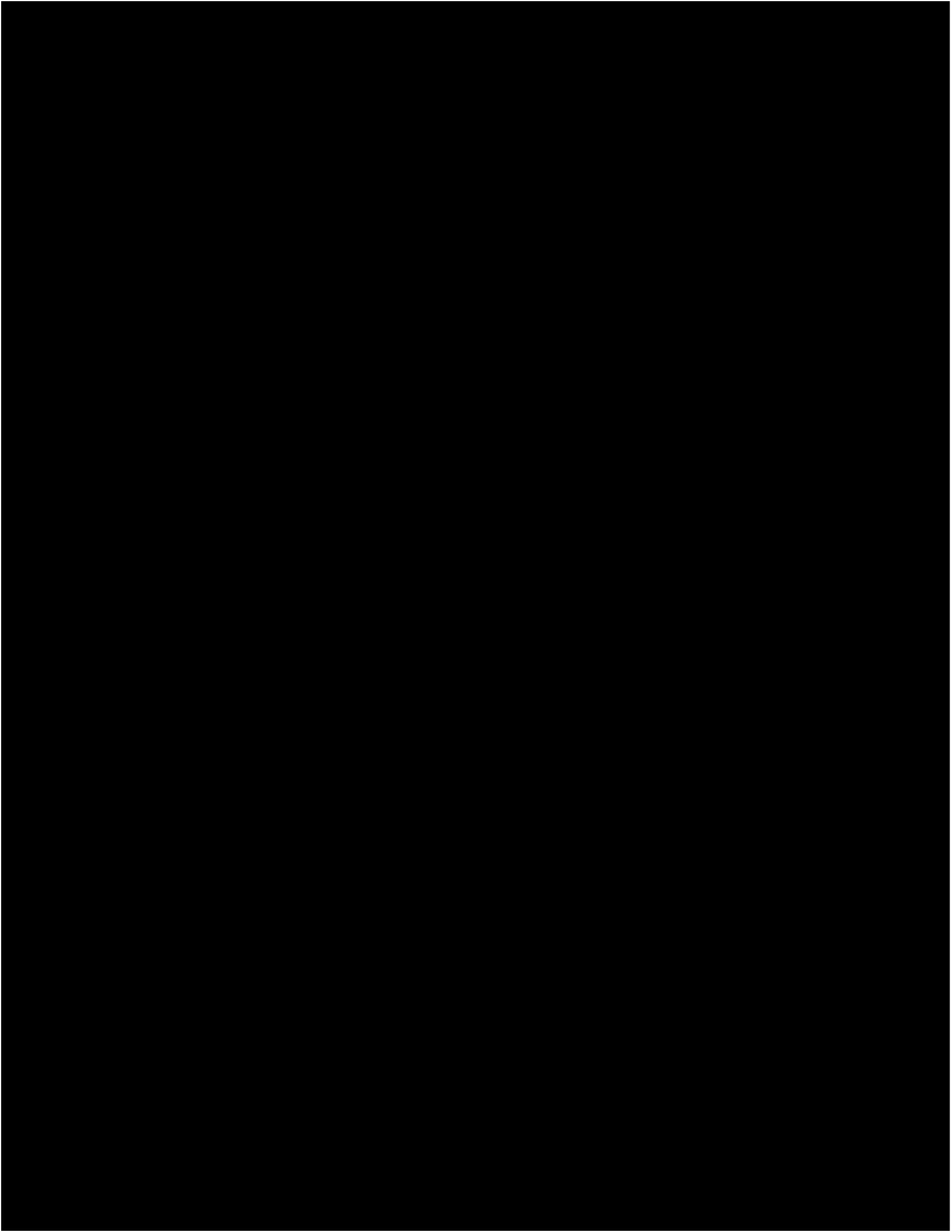


EXHIBIT 5

EXHIBIT 6

