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10 and all others similarly situated

11 *[Additional Counsel listed on following page]*

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF SAN BERNARDINO**

14 PHILLIP BERNAL, TRUHILL NOEL,
15 KHYELL MARTIN, DAMIEN
16 MCNORTON, WADDIE EARNEST,
17 GILBERT ESTRADA, CARMEN
18 HERNANDEZ, and WENDY QUINTERO,
19 individually, on behalf of themselves and all
20 others similarly situated,

21 Plaintiffs,

22 v.

23 EXPRESS MESSENGER SYSTEMS, INC.,
24 dba ONTRAC, a Minnesota Corporation,
25 ONTRAC LOGISTICS, INC., a Delaware
26 Corporation, and DOES 2-10, Inclusive,

27 Defendants.

Case No. CIVSB2319614

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Joseph Ortiz
Department S-17

CLASS AND REPRESENTATIVE ACTION

**DECLARATION OF PHILLIP BERNAL IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: July 21, 2026

Time: 1:30 p.m.

Dept. S-17

Complaint filed: August 15, 2023

Trial date: Not set

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Attorneys for Plaintiff CARMEN HERNANDEZ and WENDY QUINTERO

1 I, Phillip Bernal, declare as follows:

2 1. I am one of the named plaintiffs in this class and representative action against
3 Defendant OnTrac Logistics, Inc. (formerly Express Messenger Systems, Inc. dba OnTrac)
4 (“OnTrac”), and make this declaration in support of the Class and Representative Action
5 Settlement. I have personal knowledge of the facts stated in this declaration, except as to those
6 matters stated upon information or belief, and, as to those matters, I believe them to be true. If
7 called as a witness, I could and would testify truthfully and competently to the matters stated in this
8 declaration.

9 2. I am in no way related to anyone associated with or who works for The Markham
10 Law Firm, Cohelan Khoury & Singer, or United Employees Law Group.

11 3. I worked for OnTrac as a non-exempt, hourly-paid Loader in Redlands, California,
12 from approximately November 2021 to approximately August 2022. My duties included unloading
13 merchandise from trucks, scanning incoming packages, labelling and handing packages off to a
14 sorter, and occasionally assisting the sorters in sorting packages and loading onto the trucks for
15 transport and delivery. The packages I handled included packages moving from other states into
16 California.

17 4. After my employment ended with OnTrac, I decided to consult with an attorney. I
18 felt I was treated unfairly and not paid for all the wages that I was owed. I initially spoke with the
19 attorneys at Markham Law Firm and United Employees Law Group, and later with the attorneys at
20 Cohelan Khoury & Singer, and told them about everything I had experienced while working for
21 OnTrac. I decided to become a named plaintiff in a class and representative action against OnTrac.
22 My attorneys explained the duties and responsibilities of a class representative to me, and I decided
23 to undertake this role for the benefit of other employees of OnTrac who experienced the same
24 issues that I had experienced.

25 5. In the complaint and amended complaint I brought against OnTrac, I allege that I
26 was not paid for all hours that I worked, including overtime and time worked off the clock, not paid
27 reporting time pay or split-shift premiums, not paid my vacation, not provided all meal and rest
28 periods, and not reimbursed business expenses I incurred, among other claims. I hoped that by

1 filing this lawsuit, OnTrac would pay its employees for all hours worked, including overtime and
2 off-the-clock time, provide reporting time pay and split-shift premiums, pay all vacation wages,
3 provide employees with timely and uninterrupted meal and rest breaks as required by California
4 law, and reimburse employees for expenses incurred performing their job duties.

5 6. I was very happy to learn that the case had settled on a class-wide and representative
6 basis, and it resulted in a settlement amount of \$ 4,500,000.00 from which payments will be made
7 to Class Members/aggrieved employees. I think this is an excellent result. I am proud that because I
8 felt that something was wrong and decided to do something about it, the other employees will
9 benefit financially.

10 7. Before the case was even filed, I worked closely with my attorneys—answering
11 questions by phone and email, searching my records, and providing information and documents
12 related to the case. In total, I estimate that I have spent approximately 75-85 hours on this case. I
13 began working on this case before it was even initiated. I spent a lot of time answering my
14 attorneys’ questions by phone, emails, and text messages about this case. I spent many hours
15 searching for all information and documents related to my employment. I also have spent hours
16 reviewing documents my attorneys asked me to review. Throughout, I have conferred with my
17 Counsel and remained available to answer any questions, and to provide any work or documents
18 requested. Whenever asked, I have searched for more records, organized and produced records and
19 reviewed any documents provided by OnTrac which my attorneys have asked me to explain,
20 particularly in regard to my job duties to support my claims in my case.

21 8. I was on standby for a full-day mediation and provided information regarding my
22 claims. During the mediation, I had to be available when my attorneys called or emailed me, asking
23 questions pertaining to my claims in this case.

24 9. I did my best to be available to my attorneys to answer any questions they had or
25 provide any information they needed. I returned their phone calls as promptly as I could and
26 answered any questions to the best of my ability. I complied with my attorneys’ requests to review
27 documents and provide information.

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1 10. I reviewed and asked questions about the terms of the settlement and ultimately
2 signed the Settlement Agreement, as well as a declaration in support of the settlement. Before that,
3 during the litigation, I submitted a declaration in support of Plaintiffs' opposition to OnTrac's
4 motion to compel arbitration.

5 11. During my employment, I did not feel that I was treated fairly. I ultimately did not
6 decide to pursue a potential individual claim. Instead, I focused on bringing this class and
7 representative action to address broader issues affecting other employees. Consequently, as part of
8 this settlement, I signed a general release, which means I am releasing all claims I have against
9 OnTrac - not only those alleged in this lawsuit.

10 12. Pursuing this lawsuit has presented significant personal challenges. The litigation
11 process substantially increased my anxiety and overall stress levels, as I was continually
12 preoccupied with the matter. The resulting strain adversely affected my family due to the ongoing
13 emotional pressure. When I was at work, I would need to ask my supervisor to take breaks to
14 respond to my attorneys. I also missed visits with my children to work on gathering and providing
15 information requested by my attorneys. Despite the toll this litigation took on me, I feel proud that I
16 stepped up for the benefit of the employees.

17 13. By filing this lawsuit, I understood the risks involved. I now bear the stigma of
18 bringing a class and representative action wage dispute against my previous employer.
19 Additionally, given the internet, it is quite likely that any potential future employers or professional
20 affiliations might find out simply by "googling" my name that I acted as a class representative in
21 this action against my employer. Regardless, I am happy to know that the time, effort, and
22 information I provided helped to make this settlement possible.

23 14. I am also aware that if I lost this case, I might have been responsible for OnTrac's
24 costs of defending this case. This added to the stress of assuming the role of a named plaintiff in
25 this case.

26 15. At times, it was a challenge for me to participate in this case while balancing my
27 professional and personal obligations as well as the risks and sacrifices I undertook to achieving this
28 result. Nevertheless, I believe my efforts benefited the LWDA and other aggrieved employees and

1 class members. For all of the reasons above, I believe I deserve a Service Award of \$10,000.

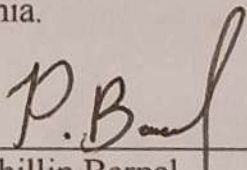
2 16. I have no conflict of interest with any other aggrieved employees or class members.

3 17. I have also been advised in writing—and have signed—a Joint Prosecution and
4 Attorney Fee Split Agreement, which provides that any attorneys' fees awarded in this case will be
5 divided as follows: 39.6% to my counsel (to be allocated as follows: the Markham Law Firm shall
6 receive 16.33% of the awarded attorneys' fees, Cohelan, Khoury & Singer shall receive 50.34%,
7 and 33.33% to United Employees Law Group), 14.85% to Martin's counsel, 14.85% to McNorton's
8 counsel, 14.85% to Estrada's counsel, 14.85% to Earnest's counsel, and 1% to Hernandez's
9 counsel.

10 18. I have not entered into any undisclosed agreements, nor have I received any
11 undisclosed compensation in this case. The only compensation I will receive is whatever amount
12 the Court awards as a Service Award, in addition to my share of the settlement fund as a class
13 member and aggrieved employee.

14 19. I am very pleased with the outcome of the case, and I believe it is a good result for
15 the benefit of the class members and aggrieved employees in this case. I respectfully ask that the
16 Court grant the approval of this Settlement and do everything in the Court's power to finalize the
17 Settlement. I am committed to this case and will continue to make myself available throughout the
18 rest of the settlement process.

19 I declare under the penalty of perjury under the laws of United States and the State of
20 California that the foregoing is true and correct and that this declaration is executed on
21 June 21, 2026, in _____, California.

22
23 
24 _____
25 Phillip Bernal
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