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and all others similarly situated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

PHILLIP BERNAL, TRUHILL NOEL,
KHYELL MARTIN, DAMIEN
MCNORTON, WADDIE EARNEST,
GILBERT ESTRADA, CARMEN
HERNANDEZ, and WENDY
QUINTERO, individually, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

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

Defendants.

Case No. CIVSB2319614

ASSIGNED FOR ALL PURPOSES TO:

Hon. Joseph Ortiz

Department S-17

**CLASS AND REPRESENTATIVE
ACTION**

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

Date: July 21, 2026

Time: 1:30 p.m.

Dept.: S-17

Complaint filed: August 15, 2023

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23 Attorneys for Plaintiff CARMEN HERNANDEZ and WENDY QUINTERO

1 I, DAMIEN MCNORTON, declare as follows:

2 1. I am an adult over the age of eighteen (18) years old. I am a named plaintiff in the
3 above-captioned lawsuit. I have personal knowledge of the facts set forth in this declaration. I
4 make this declaration in support of Plaintiffs' Motion for Final Approval of Class 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
8 this declaration.

9 3. I decided to file my lawsuit against my former employer Express Messenger
10 Systems dba Ontrac because I did not feel that I was treated fairly as one of their employees with
11 regard to not being paid correctly, not getting all of my lunches and breaks like I was supposed to,
12 and not being reimbursed for using my own phone on company business.

13 4. It is my understanding this lawsuit could not have been prosecuted or settled on
14 behalf of the other employees unless I and/or the other named Plaintiffs decided to serve as a
15 class representative. In deciding to serve as a named plaintiff in this case, I understood that my
16 name could be publicly attached to this lawsuit and that my work experiences to some extent
17 would be set forth in a public court file. I recognized I would need to devote a certain amount of
18 time that I could have spent otherwise. I also recognized my bringing the lawsuit carried some
19 degree of risk for defendants' legal costs among other things. Despite this, I decided to serve as
20 the named plaintiff and class rep without any promise of recovery or compensation.

21 5. I am familiar with the work involved in prosecuting this case. I have participated
22 in meetings, phone calls, and other communications with my lawyers regarding this case. I am
23 familiar with the allegations and defenses of the claims in this case. I am familiar with the major
24 events in this case, including the investigation performed by my lawyers, the mediation with
25 Defendant that eventually resulted in this settlement, and the preparation of settlement papers and
26 the need to obtain court approval of the proposed settlement. I participated in the litigation and
27 provided my lawyers with information and documents regarding my employment with Defendant.
28

DECLARATION OF DAMIEN MCNORTON IN SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION AND REPRESENTATIVE ACTION SETTLEMENT

1 6. I believe that the proposed settlement obtained on behalf of other class members,
2 the State and other aggrieved employees is excellent in view of the issues and risks involved with
3 the case.

4 7. I believe I have fulfilled my duties as a named plaintiff, which required a
5 significant amount of time and effort during the course of this case. These efforts required
6 dedicating numerous hours to lawsuit activities including, but not limited to: (a) communicating
7 with my attorneys to stay informed of ongoing developments in the case and to discuss the
8 proposed settlement ultimately negotiated; (b) searching for and providing documents and other
9 materials relating to my work experience; (c) responding to requests for information relating to
10 my work experience; (d) reviewing filings and key documents including drafts of the complaint
11 and the settlement agreement , and (e) making myself available throughout the day of mediation.
12 These tasks required my dedication of at least 35-40 hours of my time, which time I honestly
13 could have spent on family, personal time, or work. My understanding is that future tasks may
14 require several more hours of my time. Further, at all times I was ready, willing and able to testify
15 at deposition and/or trial. I believe I have been diligent and that I have acted above and beyond
16 that of which is expected of a named plaintiff and proposed class representative to date and will
17 continue to do so.

18 8. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
19 named plaintiff and class representative, and in consideration for my general release of all claims
20 against Defendant, as well as any potential impact on future job prospects. I believe that amount
21 is fair and reasonable in view of the work I have and may have to continue to perform. I believe
22 that my role as the named plaintiff and class representative in this lawsuit has resulted in a
23 valuable benefit to the State and to the other employees, and I accepted the potential risk of being
24 liable for the opposing parties' costs if we were unsuccessful in this lawsuit. I believed in this
25 case, so I was willing to be the named plaintiff and class rep to risk this and pursue this
26 representative litigation. I also accepted the risk that news of this lawsuit could also potentially
27 impact my ability to secure other work. I am also aware that my lawyers and the lawyers for the

1 other plaintiffs in the case will be sharing any fees earned in this case and I agreed to the fee split
2 in writing.

3 9. Based on the time, service, risk, stress, potential stigma, loss of benefits and
4 excellent outcome of this case, I believe the enhancement for me is fair and reasonable.

5 10. I have no conflicts of interest with any class member or the Settlement
6 Administrator, ILYM, Group, Inc.

7 11. I am not aware of any other actions other than those that were included in the
8 settlement that will be extinguished by the settlement release being provided in this case.

9 I declare under penalty of perjury under the laws of California that the foregoing is true
10 and correct. Executed on 06 / 13 / 2026, at San mateo, California.

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13 Damien McNorton
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