

1 **THE MARKHAM LAW FIRM**

2 David R. Markham (SBN 071814)

3 dmarkham@markham-law.com

4 Lisa Brevard (SBN 323391)

5 lbrevard@markham-law.com

6 888 Prospect Street, Suite 200

7 La Jolla, CA 92037

8 Telephone: (619) 399-3995/Facsimile: (619) 615-2067

9 Attorneys for Plaintiffs PHILLIP BERNAL and TRUHILL NOEL, on behalf of themselves
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 YASMIN HOSSEINI IN
SUPPORT OF PLAINTIFFS' [UNOPPOSED]
MOTION FOR PRELIMINARY APPROVAL
OF CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Date: January 6, 2026

Time: 1:30 p.m.

Dept. S-17

Complaint Filed: August 15, 2023

Trial Date: Not Set

UNITED EMPLOYEES LAW GROUP

Walter Haines (SBN 071075)

walter@uelglaw.com

8605 Santa Monica Blvd., #63354

West Hollywood, CA 90069

Telephone: (562) 256-1047/Facsimile: (562) 256-1006

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)

ikhoury@ckslaw.com

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Maggie K. Realin (SBN 263639)

mrealin@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

Attorneys for Plaintiffs PHILLIP BERNAL and TRUHILL NOEL

HAIG B. KAZANDJIAN LAWYERS, APC

Haig B. Kazandjian (SBN 278622)

haig@hbklawyers.com

Cathy Gonzalez (SBN 310625)

cathy@hbklawyers.com

Melissa Robinson (SBN 336951)

melissa@hbklawyers.com

Christina N. Mirzaie (SBN 333274)

christina@hbklawyers.com

801 North Brand Boulevard, Suite 970

Glendale, CA 91203

Telephone: (818) 696-2306/Facsimile: (818) 696-2307

Attorneys for Plaintiff KHYELL MARTIN

CROSNER LEGAL, PC

Zachary M. Crosner (SBN 272295)

zach@crosnerlegal.com

Chad A. Saunders (SBN 257810)

chad@crosnerlegal.com

9440 Santa Monica Blvd. Suite 301

Beverly Hills, CA 90210

Telephone: (866) 276-7637/Facsimile: (310) 510-6429

Attorneys for Plaintiff DAMIEN MCNORTON

AEGIS LAW FIRM, PC

Kashif Haque (SBN 218672)

khague@aegislawfirm.com

Jessica L. Campbell (SBN 280626)

jcampbell@aegislawfirm.com

Samuel A. Wong (SBN 217104)

swong@aegislawfirm.com

9811 Irvine Center Drive, Suite 100

Irvine, CA 92618

Telephone: (949) 379-6250 2024/Facsimile: (949) 379-6251

Attorneys for Plaintiff GILBERT ESTRADA

LA WYERS *for* JUSTICE, PC

Arby Aiwazian (SBN 269827)

aa@calliustice.com

Joanna Ghosh (SBN 272479)

joanna@calljustice.com

Yasmin Hosseini (SBN 326399)

yasmin@calljustice.com

450 N. Brand Blvd., Suite 900

Glendale, CA 91203

Telephone: (818) 265-1020/Facsimile: (818) 265-1021

Attorneys for Plaintiff WADDIE EARNEST

WILSHIRE LAW FIRM

Tyler Woods (SBN 232464)

tyler.woods@wilshirelawfirm.com

James Yoo (SBN 310680)

james.yoo@wilshirelawfirm.com

660 S. Figueroa Street, Sky Lobby

Los Angeles, CA 90017

Telephone: (213) 381-9988/Facsimile: (213) 381-9989

Attorneys for Plaintiff CARMEN HERNANDEZ and WENDY QUINTERO

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1 Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree
2 program. In addition, he has previously served as a pro bono mediator for the Los Angeles
3 County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate
4 from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing
5 at Harvard University. From approximately September 2002 to approximately December
6 2002, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United
7 States Court of Appeals for the Ninth Circuit. From approximately June 2002 to
8 approximately August 2002, he served as a Judicial Extern to the Honorable Earl Johnson,
9 Jr. of the California Court of Appeal for the Second Appellate District. In December of
10 2004, he obtained a license to practice law from the California State Bar. Since in or around
11 October of 2008, through his work at Lawyers *for* Justice, PC, he has almost exclusively
12 focused on the prosecution of consumer and employment class actions. While employed by
13 Lawyers *for* Justice PC, he has argued over one hundred (100) motions, taken or defended
14 over one hundred fifty (150) depositions, prepared dozens of expert witnesses for deposition
15 or trial, and attended over one hundred seventy-five (175) mediations. Together with other
16 attorneys at the firm, and in some cases in conjunction with co-counsel, he has successfully
17 litigated cases involving the executive, administrative, and other overtime exemptions to the
18 State of California and federal overtime compensation requirements. Under his supervision,
19 Lawyers *for* Justice, PC has successfully obtained class certification by contested motion
20 practice in approximately sixteen (16) cases in the last decade and litigated over 1,000 class
21 action or representative action cases.

22 4. Arby Aiwarzian is a Member and Shareholder of Lawyers *for* Justice, PC. He
23 received his Bachelor of Arts degree from University of California, Los Angeles and
24 graduated magna cum laude. He earned a Juris Doctor degree, cum laude, from
25 Southwestern Law School. From approximately May 2007 to approximately July 2007, he
26 served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of
27 Appeal for the Second Appellate District. From approximately August 2008 to
28 approximately December 2008 he served as a Judicial Extern to the Honorable Kim

1 McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit. He was
2 admitted to practice law in California in 2010. He is admitted to practice before all courts of
3 the State of California and all United States District Courts in the State of California. He has
4 worked on many wage-and-hour class action and representative action cases, taking the lead
5 in taking and defending depositions, arguing motions, and attending mediations. He has
6 played an integral role in preparing matters for class certification, including and not limited
7 to, successful certification of a class in *Upson v. Sur La Table* (Los Angeles County
8 Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles
9 County Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda
10 County Superior Court Case No. RG13680477). Under his supervision, dozens of class
11 action or representative action cases have resulted in settlements that have been granted
12 court approval. He has handled over one hundred and fifty (150) mediations and worked on
13 over two hundred and fifty (250) class action or representative action cases which have
14 resulted in settlement.

15 5. Joanna Ghosh is a Managing Member of Lawyers *for* Justice, PC. She
16 received a Bachelor of Arts degree from California State University, Los Angeles in 2006, a
17 Master of Science degree from the London School of Economics in 2007, and a Juris Doctor
18 degree from Georgetown University Law Center in 2010. She is admitted to practice in
19 California (since 2010) and in New York (since 2013) and she is also admitted to practice in
20 all U.S. District Courts in California, U.S. Ninth Circuit Court of Appeals, the U.S.
21 Bankruptcy Court for the Central District of California, and the U.S. Supreme Court. She
22 has taken and defended dozens of depositions and successfully handled motion practice in
23 class action cases regarding discovery (including and not limited to, regarding class contact
24 information), class certification (both contested class certification and stipulated class
25 certification), arbitration agreements, coordination, intervention. She has successfully
26 handled briefing and oral argument on appeal, and obtained notable decisions regarding the
27 Private Attorneys General Act and employer efforts to compel arbitration of PAGA claims,
28 e.g., *Roberto Betancourt v. Prudential Overall Supply* (Cal. Ct. App., Mar. 7, 2017) 9

1 Cal.App.5th 439, cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and
2 *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th175. She has significant experience with class
3 actions, including and not limited to working on cases to obtain class certification through
4 contested motion practice and working on cases in the post-certification stage (e.g., post-
5 certification discovery, appeal, statistical sampling and pilot study, and trial preparation in
6 conjunction with co-counsel in a case involving a certified class consisting of approximately
7 2,600 individuals). She has extensive experience with class action and/or representative
8 action settlements, and has handled this process in over five hundred (500) cases. Under her,
9 Edwin Aiwasian, and Arby Aiwasian's supervision, Lawyers *for* Justice, PC has handled
10 the class certification and court approval process for hundreds of class action and/or
11 representative action matters that have successfully resolved. Joanna Ghosh is a member of
12 the California Employment Lawyers Association and, on several occasions, has been a
13 speaker regarding topics in wage and hour law at the organization's continuing legal
14 education events.

15 6. I am a member of Lawyers *for* Justice, PC. I received my Bachelor of Arts
16 Degree from the University of California, Santa Barbara in 2013 and earned my Juris
17 Doctor degree from Pepperdine University School of Law in 2017. I was admitted to
18 practice law in California in 2019. I am admitted to practice before all courts of the State of
19 California and all federal district courts in the State of California. I have worked on many
20 wage and hour class action and PAGA representative cases, and my work has included,
21 *inter alia*, researching and drafting pleadings, administrative notice exhaustion, drafting,
22 negotiating, and finalizing stipulations and settlement agreements, engaging in motion
23 practice, claims evaluation and analysis, and making court appearances. Prior to working at
24 Lawyers for Justice, PC, I represented filmmakers and talent, negotiating and structuring
25 various types of agreements on their behalf. I am a member of the California Employment
26 Lawyers Association, Beverly Hills Bar Association, and Iranian American Bar
27 Association.

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1 **BASIC INFORMATION ABOUT THE CASES AND REACHING THE**
2 **SETTLEMENT**

3 7. Lawyers *for* Justice, PC has been actively engaged in this litigation from the
4 inception of the Earnest Action, which was filed on January 12, 2024. Lawyers *for* Justice,
5 PC has fully and actively participated in the litigation process throughout the pendency of
6 the Earnest Action. The Earnest Action, *Bernal, et al. v. Express Messenger Systems, Inc.*
7 *dba OnTrac, et al.*, San Bernardino Superior Court, Case No. CIVSB2319614 (“Bernal
8 Action”), *Martin v. OnTrac Logistics, Inc.*, Los Angeles Superior Court, Case No.
9 23STCV07710 (“Martin Action”), *McNorton v. OnTrac Logistics, Inc.*, San Francisco
10 Superior Court, Case No. CGC23607925 (“McNorton Action”), and *Estrada v. OnTrac*
11 *Logistics, Inc.*, San Joaquin Superior Court, Case No. STK-CV-UOE02024-0000460
12 (“Estrada Action”), were mediated and resolved, and the parties anticipate filing an
13 amended consolidated complaint in the Bernal Action to consolidate all the claims and
14 allegations into a single complaint (collectively, the “Settled Actions”).

15 8. Lawyers *for* Justice, PC, counsel for Plaintiff Earnest, eventually joined forces
16 with Cohelan Khoury & Singer, The Markham Law Firm, and United Employees Law
17 Group, counsel for Plaintiffs Phillip Bernal and Truhill Noel, Crosner Legal, PC, counsel
18 for Plaintiff Damien McNorton, Haig B. Kazandjian Lawyers, APC, counsel for Plaintiff
19 Khyell Martin, Aegis Law Firm, PC, counsel for Plaintiff Gilbert Estrada, and Wilshire Law
20 Firm, counsel for Plaintiffs Wendy Quintero and Carmen Hernandez, and since then have
21 been working cooperatively and in a coordinated fashion to pursue this matter and reach an
22 outstanding settlement recovery (Plaintiff Earnest, Plaintiff Phillip Bernal, Plaintiff Truhill
23 Noel, Plaintiff Damien McNorton, Plaintiff Khyell Martin, Plaintiff Gilbert Estrada,
24 Plaintiff Carmen Hernandez, and Plaintiff Wendy Quintero are collectively referred to as
25 “Plaintiffs”). Collectively, Lawyers *for* Justice, PC, Cohelan Khoury & Khoury, Markham
26 Law Firm, United Employees Law Group, Crosner Legal, PC, Haig B. Kazandjian Lawyers,
27 APC, Aegis Law Firm, PC, and Wilshire Law Firm, are referred to as “Class Counsel.”

28 9. Before initiating the lawsuit on behalf of Plaintiff Earnest, Lawyers *for*

1 Justice, PC conducted extensive investigation and research into the facts and circumstances
2 underlying the pertinent factual and legal issues and applicable law. This required thorough
3 discussions and interviews between attorneys at our firm and Plaintiff Earnest, and research
4 into the various legal issues involved in the cases, namely, the current state of the law as it
5 applied to off-the-clock theory, rounding, regular rate, meal and rest periods, unreimbursed
6 business expenses, and wage-and-hour law and enforcement, Plaintiff Earnest's claims and
7 damages, and Defendant OnTrac Logistics, Inc. (formerly known as Express Messenger
8 Systems, Inc. dba OnTrac) ("Defendant") (collectively with Plaintiffs, the "Parties")
9 defenses. After conducting initial investigations, our firm determined that Plaintiff
10 Earnest's claims were well-suited for class action and representative treatment owing to
11 what appeared to be a common course of conduct affecting a similarly situated group of
12 current and former non-exempt employees of Defendant who were employed in the State of
13 California , who were not properly compensated for, *inter alia*, all hours worked, non-
14 compliant meal and rest periods, and unreimbursed business expenses.

15 10. Collectively, Class Counsel investigated the veracity, strength, and scope of
16 the claims, and worked on preparing the matter for class certification and trial, prior to
17 reaching the Settlement. This matter has involved extensive and ongoing investigations,
18 research into legal and factual issues, and informal discovery. Class Counsel obtained
19 information, documents, and data in the course of litigation and in connection with
20 mediation and settlement negotiations. Class Counsel reviewed and analyzed a volume of
21 information, documents, and data obtained from Plaintiffs, Defendant, and other sources,
22 researched applicable law, and undertook analyses and calculations of the value of claims,
23 damages, and penalties exposure. Class Counsel also met and conferred with Defendant's
24 counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case
25 management, discovery, and production of information, documents, and data in the course
26 of litigation, and in connection with mediation and settlement discussions. Other work that
27 Class Counsel performed included, and was not limited to, case strategy and analysis;
28 drafting, reviewing, and revising the pleadings and motion-related papers; case

1 management; claims assessment and evaluation; and preparing for and attending court
2 proceedings, mediation, and settlement negotiations.

3 11. As outlined herein, the Parties have conducted significant investigations and
4 exchange, review, and analysis of a volume of information, documents, and data obtained
5 from Plaintiffs, Defendant, and other sources during the course of litigating the matter and
6 in connection with mediation and settlement negotiations. The information, documents, and
7 data provided a critical understanding of the nature of the work performed by putative class
8 members and aggrieved employees, as well as Defendant's' operations and employment
9 policies, practices, and procedures, and were used in analyzing liability, damages, and
10 penalties valuation issues in connection with all phases of the litigation, and ultimately, in
11 connection with the mediation and settlement negotiation process. Accordingly, sufficient
12 investigation and review of information has taken place in order for the Parties to be
13 sufficiently informed of the nature and extent of the claims, and to enable all parties to fully
14 evaluate the Settlement for its fairness, adequacy, and reasonableness.

15 12. After conducting significant investigation of the facts and law during the
16 prosecution of the matter, counsel for the Parties engaged in mediation and extensive
17 settlement negotiations to try to resolve the matter. These efforts included participating in
18 mediation conducted by Kevin Barnes, Esq., a well-respected mediator experienced in
19 mediating complex labor and employment matters, on March 25, 2025. During all
20 settlement discussions, the Parties conducted their negotiations at arm's length in an
21 adversarial position. In the course of the mediation and settlement negotiations, the Parties
22 discussed all aspects of the matter, including the risks and delays of further litigation, the
23 risks to the Parties of proceeding with class certification and/or trial, as well as the law
24 relating to, *inter alia*, class certification, off-the-clock theory, rounding, regular rate, meal
25 and rest periods, PAGA representative claims, and wage-and-hour law and enforcement, as
26 well as the evidence produced and analyzed, and the possibility of appeals, among other
27 things. Arriving at a settlement that was acceptable to all Parties was not easy. After
28 conducting extensive investigations, informal discovery, and settlement negotiations, and

1 with the aid of the mediator's evaluations, the Parties have agreed to resolve the matter
2 given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to
3 both sides that would attend further litigation, and the real possibility of no recovery after
4 years of litigation.

5 **CLASS REPRESENTATIVE SERVICE PAYMENTS TO PLAINTIFFS**

6 13. The Settlement Agreement provides for class representative service payments
7 in an amount not to exceed \$10,000.00 each to Plaintiffs Phillip Bernal, Truhill Noel,
8 Khyell Martin, Damien McNorton, Gilbert Estrada, and Waddie Earnest, and \$7,500.00
9 each to Plaintiffs Carmen Hernandez and Wendy Quintero, as class representative service
10 payments to be paid out of the Gross Settlement Amount, subject to approval by the Court.
11 The contemplated services payments are fair and appropriate in light of the time and effort
12 that Plaintiffs expended to pursue the matter. Plaintiffs were available whenever Class
13 Counsel needed them, actively tried to obtain and provide information, and spent a
14 substantial amount of time and effort providing the facts and evidence necessary to facilitate
15 prosecution of the matter. Accordingly, it is appropriate and just for Plaintiffs to each
16 receive a reasonable class representative service payment for their services in the matter, in
17 addition to his individual settlement payments.

18 14. I submit that the Settlement is fair, reasonable, and adequate, and it is in the
19 best interest of Plaintiffs, Class Members, the State of California, and PAGA Eligible
20 Employees.

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

23 Executed on this 9th day of December 2025, at Glendale, California.

24 

25 _____
Yasmin Hosseini