

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
SERGIO RODRIGUEZ

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
SERGIO RODRIGUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

SERGIO RODRIGUEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

SUPERIOR TANK CO., INC., a California
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. BCV-23-100144 consolidated with
Case No. BCV-23-100926

*[Case Assigned to Hon T. Mark Smith
department T-2]*

**DECLARATION OF SERGIO RODRIGUEZ
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: July 15, 2024
Time: 8:30 a.m.
Dept.: T-2

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, SERGIO RODRIGUEZ, declare as follows:

1. I am an individual over the age of 18 and the named plaintiff in this matter. This declaration is submitted in support of approval of the proposed class action settlement (“Settlement”) reached in this case. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I was employed by Defendant Superior Tank, Inc. (“Defendant”) as a Bolted Tank Installer and Driver from approximately December 2006 through approximately November 8, 2022. During my employment with Defendant, I, along with the other non-exempt employees, were required to follow Defendant’s wage and hour policies and practices.

3. I am informed and believe, and on that basis state, that throughout my employment with Defendant, I was not paid for all my time worked. Specifically, I contend that I was not paid for time worked at the yard during the workday. For example, I often was required to arrive at Defendant's yard to collect and prepare the materials for the assigned project and travel to the job worksite by 6:00 a.m. Despite this compensable work at the yard and then traveling to the worksite, Defendant only paid me starting from the time I arrived at the job worksite (*i.e.* 6:00 a.m.). This practice by Defendant resulted in Defendant not properly tracking the time worked by me, and also resulted in Defendant not paying me for all wages owed for the work I performed, including failing to pay me all required minimum and overtime wages.

4. Throughout my employment with Defendant, Defendant would keep track of my time worked and would unlawfully shave my work time and/or round my work time such that I would not be fully paid for all time worked. Specifically, Defendant maintained a uniform policy or practice of having the foreman record my hours. The foreman would record rounded hours and not the actual time I began working and/or stopped working. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and shave in Defendants' favor such that I was routinely underpaid for my time worked. Further, during my employment with Defendant, I often worked in excess of 8 hours per workday and/or 40 hours per work week, and therefore, had I been properly paid for all of the time that I actually worked, I would have been paid additional minimum

1 and/or overtime wages. This practice by Defendant resulted in Defendant not properly tracking the time
2 worked by me, and also resulted in Defendants paying me less than I was owed for the work I performed,
3 including failing to pay me all required minimum and overtime wages.

4 5. Throughout my employment with Defendant, I was not provided all required meal
5 periods due to Defendant's meal period policies and practices, which fail to provide 30-minute first
6 meal periods before the end of the fifth hour of work. Specifically, as a result of Defendant's failure to
7 consider the compensable time worked before arriving at the job worksite as time worked for purposes
8 of providing a meal period before the end of the fifth hour of work, and the work demands imposed by
9 Defendant, my meal periods were untimely, short and/or otherwise unlawful. Further, Defendant did
10 not require me and the other non-exempt employees to clock in and out for their meal periods.
11 Therefore, despite Defendant's failure to keep any records of my meal periods, I am informed and
12 believes that Defendant unlawfully and automatically deducted thirty minutes from my work time each
13 shift for a purported meal period regardless of whether or not a meal period was taken and regardless
14 of whether the meal period, if taken, was less than 30 minutes in length.

15 6. Further, Defendant's meal period policies and practices failed to provide me and the
16 other non-exempt employees a second meal period for shifts worked over 10.0 hours. As a result, when
17 I worked in excess of 10.0 hours, I was not provided with a second 30-minute meal period in violation
18 of California law. Although I was not provided with all legally-compliant meal periods to which I was
19 entitled, Defendant failed to compensate me with all of the required meal period premium for each
20 workday in which I experienced a meal period violation.

21 7. I was also not authorized and permitted to take all required rest periods due to
22 Defendant's rest period policies and practices. Defendants' rest period policies and practices fail to
23 authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Further, I
24 was unable to take many of my required rest periods due to heavy work demands. On those occasions
25 when I was not authorized and permitted to take all legally-compliant rest periods to which I was
26 entitled, Defendant failed to compensate me with the required rest period premium for each workday in
27 which I experienced a rest period violation.

1 8. Defendant also failed to reimburse me and other non-exempt employees for necessary
2 business expenses incurred during the relevant time period. Specifically, Defendant required me to use
3 my personal cellular phone to communicate with my supervisors in discharge of my duties. Further,
4 Defendant required me to use my personal tools to discharge my duties. Accordingly, despite me being
5 required to use my personal cellular phones and/or personal tools, Defendant did not reimburse me for
6 all necessary expenditures or losses incurred by in direct consequence of the discharge of my duties, or
7 of their obedience to the directions of the employer.

8 9. I have worked closely with my lawyers on this case. I answered all of their questions
9 about my employment and made myself available to speak and meet with my lawyers whenever I was
10 needed, including the entire day of the mediation on and throughout the settlement process.

11 10. At the time of filing this lawsuit, I understood that this lawsuit had the chance to benefit
12 my former co-workers and current employees of Defendant by helping them recover money I believe is
13 owed to them. As the named Plaintiff, I knew that I would be taking on certain risks that the other
14 employees would not have to take on. For example, I knew that there was a risk that I could be liable
15 for Defendant's costs if we lost the case. Even though I understood that joining a lawsuit is a public
16 record and could stigmatize me and may affect my future employability, I accepted that burden for the
17 benefit of other employees of Defendant because I wanted Defendant to pay its current and former non-
18 exempt employees for all unpaid wages and unreimbursed expenses according to the law and face
19 consequences for not doing so.

20 11. I have been actively involved in this case since joining this lawsuit. Without revealing
21 and/or waiving attorney-client privileged communications, I have communicated with my attorneys on
22 numerous occasions. I estimate that I have spent approximately 15-20 hours meeting with my lawyers
23 concerning the case and my responsibilities as a class representative, which included, among other
24 things, gathering various employment and non-employment related documents for use in the lawsuit,
25 reviewing documents with my lawyers and answering their questions, answering follow up questions
26 and providing guidance regarding Defendant's pay practices, and other policies and procedures that
27 Defendant required me and the other employees to follow, and helping develop a strategy as to what
28 documents/information to obtain from Defendant. In connection with the settlement in this case, I spent

1 about 2 hours reviewing the settlement agreement and discussing the agreement and approval process
2 with my attorneys. I made sure to ask my lawyers any questions I had about the terms of the settlement
3 agreement because I wanted to understand everything before I signed it.

4 12. As part of the proposed Settlement, I have also agreed to a full general release of claims
5 related to my employment with Defendant that extends beyond the release of claims applicable to
6 members of the Class as defined in the Settlement. I understand that this includes all claims, whether
7 known or unknown, under federal, state, or local law against Defendant.

8 13. I believe my claims are typical of the members of the Class because they were required
9 to follow the same policies and procedures I was required to follow when I worked for Defendant, and
10 were subject to the same pay plan and practices. I believe Defendant's policies and procedures were
11 the same for all drivers in California. Since the same policies and procedures apply to myself and the
12 other employees, I believe they were not paid for all wages earned and did not get reimbursed for all
13 business expenses incurred.

14 14. As far as I am aware, I have no conflicts with any of the other employees. I understand
15 that as the proposed class representative, I am responsible for representing the interests of all members
16 of the class in litigation to recover money damages for the Class and I consider the interests of the Class
17 and put the interests of the Class before my own interests.

18 15. I understand that my attorneys will request that the Court award me Service Payment of
19 \$7,500.00 for my service and efforts on the case. This proposed \$7,500.00 Service Payment is not
20 contingent upon me supporting the proposed Settlement.

21 I have reviewed this written statement and fully understand all of its contents. I declare under
22 penalty of perjury under the laws of the State of California that the foregoing is true and correct.
23 Executed on Jun 5, 2024, 2024 at Bakersfield, California.

24
25 
Sergio Rodriguez (Jun 5, 2024 09:22 PDT)

26 SERGIO RODRIGUEZ
27
28