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Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

IRVYN MUNOZ, ANDREW CASTANON
GONZALEZ, LIBORIO MONTOYA, and
LEMUEL KINNEY, as individuals and on
behalf of all others similarly situated,

Plaintiffs,

vs.

XPO LOGISTICS FREIGHT, INC., a
Delaware Corporation; XPO ENTERPRISE
SERVICES, LLC, a Delaware Limited
Liability Company; and DOES 1-100,
inclusive,

Defendants.

Case No. 23CV003704

Assigned to Hon. Lauri A. Damrell, Dept. 22

DECLARATION OF LEMUEL KINNEY

Date: February 28, 2025

Time: 9:00 a.m.

Dept.: 22

Reservation Number: **A-03704-001**

1 THE WHEELER LAW FIRM, APC

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10 Attorneys for Plaintiff and the Putative Class

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1 I, LEMUEL KINNEY, declare as follows:

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

5 2. I worked for XPO from about August 2021 to April 2023, performing both line haul
6 and pickup & delivery work, as well as dock work, like driving a forklift, when I wasn't driving. I
7 operated out of the Fontana yard and mainly drove to locations in and around Riverside County.
8 While I worked there I don't think I was paid for all hours that I worked because I don't think the
9 company's time keeping system captured all time spent on non-driving duties like fueling up the
10 truck, waiting on loads, washing the truck, performing their pre & post trip inspections etc. For
11 example, I had a set time of 15 minutes to fill up the gas tanks of the truck at gas stations and
12 20 minutes to hook up a trailer, so if it took longer I don't believe the extra time was paid for. I
13 also don't think I received all of the meal and rest breaks I was entitled to, especially when
14 performing dock work as opposed to driving. I also had to stay within 100 feet of a truck if it was
15 loaded.

16 3. I decided to file this lawsuit because I did not feel that I was treated fairly as an
17 employee of Defendants, especially with regard to me not receiving all of the pay I believe I earned,
18 and not getting proper breaks.

19 4. It is my understanding this lawsuit could not have been prosecuted or settled on
20 behalf of the Class unless I or some other current or former employee decided to serve as a named
21 plaintiff and proposed class representative. In deciding to serve as a named plaintiff and proposed
22 class representative in this case, I understood that my name could be publicly attached to this lawsuit
23 and that my work experiences to some extent would be set forth in a public court file. I recognized
24 I would need to devote a certain amount of time that I could have spent otherwise. I also recognized
25 my bringing the lawsuit carried some degree of risk for defendants' legal costs among other things.
26 Despite this, I decided to serve as the named plaintiff and proposed class representative, without any
27 promise of recovery or compensation.

1 5. I am familiar with the work involved in prosecuting this case. I have participated in
2 meetings, phone calls, and other communications with my lawyers regarding this case. I am
3 familiar with the allegations and defenses of the claims in this case. I am familiar with the major
4 events in this case, including the investigation performed by my lawyers, the mediation with
5 Defendant that resulted in this settlement, and the preparation of settlement papers and the need to
6 obtain court approval of the proposed settlement. I participated in the litigation and provided my
7 lawyers with information and documents regarding my employment with Defendant.

8 6. I believe that the proposed class-wide settlement obtained on behalf of the Class
9 and other aggrieved employees is excellent in view of the issues and risks involved with the case.

10 7. I believe I have fulfilled my duties as a proposed class representative, which
11 required a significant amount of time and effort during the course of this case. These efforts
12 required dedicating numerous hours to lawsuit activities including, but not limited to: (a)
13 communicating with my attorneys to stay informed of ongoing developments in the case and to
14 discuss the proposed settlement ultimately negotiated; (b) searching for and providing documents
15 and other materials relating to my work experience; (c) responding to requests for information
16 relating to my work experience; and (d) reviewing filings and key documents including drafts of
17 the complaint and the settlement agreement. These tasks required my dedication of at least 15-20
18 hours of my time, which time I honestly could have spent on family, personal time, or work. My
19 understanding is that future tasks may require several more hours of my time. Further, at all times
20 I was ready, willing and able to testify at deposition and/or trial. I believe I have been diligent and
21 that I have acted above and beyond that of which is expected of a named plaintiff and proposed
22 class representative to date and will continue to do so. To the best of my knowledge I have not
23 conflicts of interest of any kind with any other class member.

24 8. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
25 named plaintiff and proposed Class Representative, and in consideration for my general release of
26 all claims against Defendant. I believe that amount is fair and reasonable in view of the work I
27 have and will continue to perform on behalf of the Class. I believe that my role as the class
28 representative in this lawsuit has resulted in a valuable benefit to the Class Members, and I

1 accepted the potential risk of being liable for the opposing parties' costs if we were unsuccessful
2 in this lawsuit. I believed in this case, so I was willing to be the named plaintiff and proposed class
3 representative to risk this and pursue this class action litigation. I also accepted the risk that news
4 of this lawsuit could also potentially impact my ability to secure other work.

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

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8 I declare under penalty of perjury under the laws of California that the foregoing is true
9 and correct. Executed on 02 / 04 / 2025, at Inglewood, California.

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12 Lemuel Kinney
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