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Attorneys for Plaintiff Angel Cuellar

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

ANGEL CUELLAR, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

NEW BERN TRANSPORT
CORPORATION, a Delaware Corporation;
PEPSI-COLA SALES AND
DISTRIBUTION, INC., a Delaware
Corporation; PEPSICO, INC., a North
Carolina Corporation; and Does 1-10,
Inclusive,

Defendants.

Case No. STK-CV-UOE-2024-0008803
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Robert T. Waters
Department 11B

CLASS ACTION

**DECLARATION OF ANGEL CUELLAR IN
SUPPORT OF PLAINTIFF'S [UNOPPOSED]
MOTION FOR PRELIMINARY APPROVAL
OF CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

Date: TBD
Time: 9:00 a.m.
Dept.: 11B

Complaint filed: July 25, 2024
Trial Date: Not set

1 I, Angel Cuellar, declare:

2 1. I am the Named Plaintiff in this action and make this declaration in support of
3 the Motion for Preliminary Approval of the Class and Representative Action Settlement with
4 Defendants New Bern Transport Corporation, Pepsi-Cola Sales and Distribution, Inc., and
5 PepsiCo, Inc. ("Defendants"). I have personal knowledge of the facts stated in this declaration,
6 except as to those matters stated upon information or belief, and, as to those matters, I believe
7 them to be true. If called as a witness, I could and would testify truthfully and competently to
8 the matters stated in this Declaration.

9 2. I worked for Defendants as an hourly, non-exempt salesperson for Defendants
10 from approximately 2012 to 2021-2022 and then as a truck driver for Defendants from
11 approximately 2022 through approximately August, 2023, delivering Pepsi products throughout
12 the Stockton, California area. As a truck driver, my duties consisted of unloading merchandise
13 from trucks, by hand, or using equipment, scanning and labeling the merchandise, assisting the
14 sorters in sorting the merchandise, and loading it onto the trucks for transport and delivery. I
15 was subject to the same policies and practices of Defendants as other non-exempt employees.

16 3. In the complaint I alleged that throughout my employment with Defendants, I
17 often waited several minutes in line to clock in, and frequently waited 5–10 minutes outside
18 when the front door was locked. I do not believe I was not compensated for this time.

19 4. I also alleged that after I ended my shift and clocked out, I engaged in unpaid
20 work-related conversations with my supervisors or coworkers for 5–10 minutes after clocking
21 out, roughly once a week. I was instructed to clock out before finishing these conversations to
22 avoid the appearance of working beyond my scheduled shift. I also regularly used my personal
23 cell phone off-the-clock for work-related tasks and was expected to respond to messages during
24 my unpaid meal periods. I do not believe I was not compensated for this time.

25 5. I also alleged I was contacted daily with calls and messages regarding my
26 deliveries and was monitored using GPS tracking and an employee app. I received group chat
27 messages for at least five minutes per day. I do not believe I was not compensated for this time.

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1 6. I also alleged I was required to record my meal breaks as taken due to
2 Defendants' policy that failing to do so could result in discipline or termination. I frequently
3 skipped breaks to stay on schedule with deliveries, but still had to log them through a mobile
4 app. Even when I wished to take a break, safe or legal truck parking was typically unavailable
5 near delivery locations, and I was instructed not to leave my truck or be out of sight. As a result,
6 I was never fully relieved of duty during meal periods. Even though I remained on-duty, I
7 believe Defendants routinely deducted my wages during recorded meal periods, even though I
8 often continued working or responded to work-related communications. I was required to keep
9 my Nextel phone on and in my possession from the beginning to the end of each shift—
10 including during meal periods. I do not believe I was not compensated for this time worked
11 during my breaks.

12 7. I further alleged even though I was provided a company phone, Defendants often
13 called me on my personal cell phone for convenience, without reimbursing me the phone costs.

14 8. I was also required to wear Pepsi-branded clothing such as shirts, vests, and/or
15 pants, but I was not reimbursed for the costs of maintaining my required uniform.

16 9. I received non-discretionary compensation, including "Recognition/Service
17 Awards," which I alleged were not factored into the sick pay rate. I believe my sick pay was
18 calculated using only my base hourly rate instead of my legally required regular rate of pay. For
19 example, my January 2023 wage statement listed sick pay hours at a rate lower (\$28.62) than
20 my regular rate of pay (\$31.45) for the same period.

21 10. I believe that all these violations caused my wage statements to be inaccurate.

22 11. I decided to contact an attorney because, to me, it was not fair that I was not paid
23 for all hours worked, no provided with every single break I was entitled to, not reimbursed for
24 expenses, not paid my correct sick pay, and not paid for all wages upon separation of my
25 employment. I initially spoke with the attorneys at D.Law and later with the attorneys at
26 Cohelan Khoury & Singer and Mara Law Firm, and I told them about everything I had
27 experienced while working for Defendants. I decided to become a named plaintiff in a class
28 action against Defendants. My attorneys explained the duties and responsibilities as a named

1 plaintiff representative in a class action, and I decided to undertake this role for the benefit of
2 other employees of Defendants who experienced the same issues that I had experienced.

3 12. I am in no way related to anyone associated with anyone who works for D.Law,
4 Inc., Cohelan Khoury & Singer, or Mara Law Firm. Further, I have no conflict of interest with
5 any members of the class.

6 13. I was very happy and relieved to learn that the case had settled on a class-wide
7 basis, and it resulted in a settlement amount of \$999,999.00, from which payments will be made
8 to other employees. Based on my attorneys' evaluation and recommendation, my knowledge of
9 the issues in this lawsuit, and the risks involved in pursuing it, I believe the proposed settlement
10 is an excellent result.

11 14. I was on standby by telephone for a full-day mediation session. My attorneys
12 needed me to be available in case they had any questions pertaining to my claims in this case.

13 15. I reviewed and asked questions about the terms of the settlement, and signed the
14 Memorandum of Understand and the Settlement Agreement.

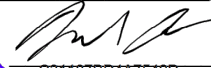
15 16. I always did my best to be available to my attorneys to answer any questions
16 they had or provide any information they needed. I returned their phone calls and emails as
17 promptly as I could and answered any questions to the best of my ability. I complied with my
18 attorneys' requests to review documents and provide information.

19 17. I have been advised in writing and have signed a Representation Agreement,
20 informing me that any fees awarded in this case will be divided as follows: 33.3% to Cohelan
21 Khoury & Singer, 33.33% to D.Law, Inc., and 33.33% to Mara Law Firm.

22 18. I will supplement this declaration at the time of final approval, when the
23 settlement approval process is nearing completion, to provide the total number of hours I
24 devoted to this action and to describe all risks I undertook as a class representative.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct. Executed on 2/11/2026, in Stockton, California.

Signed by:



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Angel Cuellar