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Attorneys for Plaintiff FIDEL GOMEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

FIDEL GOMEZ, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiffs,

v.

KIRBY MANUFACTURING, INC., a
California corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No: VCU308341

DECLARATION OF KENNETH CREAL

Date: June 16, 2025

Time: 8:30 a.m.

Judge: Hon. Gary Johnson

Dept.: 7

DECLARATION OF KENNETH CREAL CPA

I, Kenneth Creal, declare as follows:

1. I am a Certified Public Accountant licensed in the State of California and have been engaged in the full-time practice of public accounting since 1975 and licensed continuously by the California State Board of Accountancy since 1978. In more than 600 cases, I have offered forensic accounting expert testimony or reports on many business economic topics including damages models in more than 400 wage & hour class actions, numerous individual wage & hour claims, as well as other employment law and business disputes. In addition, I have been retained on more than 600 occasions to review defendants' financial documents to offer an opinion as to the financial ability of class action defendants to pay a particular settlement or to provide an opinion as to the range of potential settlement that would not be financially destructive to the defendant's ability to stay in business.

2. I have reviewed the Financial Documents of the Defendant in this matter supplied to me consisting of the following:

- a. Tax Returns for 2020-2022 inclusive.
- b. Financial Statements consisting of profit & loss statements and balance sheets covering 2020 through January 2025.

3. I have also considered the magnitude of the Gross Settlement payment set forth in the Settlement Agreement between the Parties, as well as the payment terms.

4. Based on the tax returns and financial statements, I gathered information regarding the Defendant's profit and loss history, assets potentially available to satisfy a class wide settlement, payments to affiliates and shareholders, and liabilities to third parties.

5. In my March 4, 2025 communication to Plaintiffs' counsel, I stated that the financial position of the Company is "a bit dismal". Having made myself aware of potential assets available for settlement, I recommended to Plaintiffs' counsel a settlement of \$225,000.00 and that it could likely take the Defendant up to eighteen months to amass settlement funds.

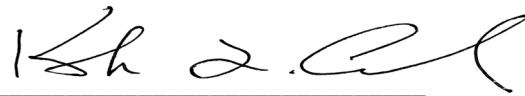
6. I have reviewed the Memorandum of Understanding executed April 8, 2025 and learned that the Parties' proposed settlement is \$230,000.00 payable in ten equal monthly

installments of \$23,000.00 commencing April 1, 2026. In my view, the settlement amount and payment terms are consistent with the opinions I expressed in early March.

7. In my opinion, based on my review of the Financial Documents, the Gross Settlement Amount and proposed payment plan is reasonable and appropriate in light of the Defendant's current financial condition and the need to avoid negatively impacting Defendant's continued business operations.

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

Executed at Washington, Utah, May 16, 2025.

A handwritten signature in black ink, appearing to read "Ksh 2. CREAL", written over a horizontal line.

KENNETH CREAL