

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

ANDREW BEISSEL, an individual, J&B
ENTERPRISES, INC., a Colorado Corporation,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

WESTERN FLYER EXPRESS, LLC,

Defendant.

Case No. CIV-21-903-R

**DECLARATION OF ROBERT BOULTER IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF CLASS ACTION SETTLEMENT**

I, Robert Boulter, declare as follows:

1. I am an attorney at law duly licensed and in good standing to practice law in the courts of California (No. 153549) and am admitted to practice *pro hac vice* before the Court in this action. I am also admitted to the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California as well as the Ninth, Tenth, and Second Circuit Court of Appeals. I am submitting this declaration in support of Plaintiff's Motion for Approval of Class Action Settlement. I am familiar with the file, documents, and history related to this case. The following statements are based on my personal knowledge. If called on to do so, I could and would testify competently thereto.

QUALIFICATIONS, EXPERIENCE, AND EXPERTISE

2. I am a sole proprietor and specialize in class, collective, and other similar types of litigation in state and federal court.

3. I have acted or am acting as class counsel in numerous cases. A partial list of cases which have been certified and/or settled as class actions includes: *Pierce v SPX*, California

Superior Court for Alameda County Case No.: H194779 (final approval of class settlement involving assertion of employee rights under California Labor Code section 2802 and Business and Professions Code sections 17200 et seq.) *Kerr v Snap-on*, California Superior Court for Santa Clara County Case No. CV758116 (final approval of class settlement involving assertion of employee rights under California Labor Code section 2802 and Business and Professions Code sections 17200 et seq.) *Ramsdell v LensCrafters*, N.D. Cal. Case No. C 03-2652 JW (HRL) (final approval of class settlement involving assertion of employee overtime rights under California Labor Code and Business and Professions Code sections 17200 et seq.); *Reynolds v. Earl Scheib*, California Superior Court for Los Angeles County Superior Court Case No. BC226353 (final approval of class settlement involving assertion of employee overtime rights under California Labor Code and Business and Professions Code sections 17200 et seq.).

4. In addition to representing clients at the trial level, I have also been lead or co-lead counsel in numerous appellate cases including: *Bridge Fund Capital Corp. v. Fastbucks Franchise Corp.*, 622 F.3d 996 (9th Cir. 2010); *Prudence Corp. v. Shred-It America, Inc.*, 2010 WL 582597 (9th Cir. 2010); *Independent Ass'n of Mailbox Center Owners, Inc. v. Superior Court*, 133 Cal.App.4th 396, 34 Cal.Rptr.3d 659 (2005); *Husain v. McDonald's Corp.*, 205 Cal. App. 4th 860, 140 Cal. Rptr. 3d 370 (2012); *Ramsdell v Lenscrafters Inc.*, 135 Fed. Appx. 130 (9th Cir. 2005); and *Reynolds v Bement*, 36 Cal. 4th 1075 (Cal. 2005).

5. Of particularly relevance is my initiation of and work in the settled class action cases of *Roberts v. C.R. England, Inc.*, 318 F.R.D. 457 (D. Utah 2017) and *Huddleston v. John Christner Trucking, LLC*, Case No. 4:17-cv-00549-GKF-FHM (N.D. Okla.). *Roberts* and *Huddleston* presented nearly identical factual situations to this case. The plaintiffs there were so-called independent contractors allegedly defrauded into leasing trucks and running as independent contractors (for refrigerated carriers just like WFX) via affirmative misrepresentations and omissions of material fact. Among other claims, the *Roberts* plaintiffs

alleged that England had violated Utah's Business Opportunity Disclosure Act, Utah's Consumer Sales Practices Act, and failed to disclose the extremely high turnover. These statutes were substantially similar to the consumer statute claims made in this case. The *Roberts* Court issued a 116-page class certification decision certifying a nationwide class of 17,519 drivers under these and other statutes as well as common law claims. *Id.* The *Roberts* case settled and provided the class some \$37,800,000 in actual monetary relief in addition to substantial non-monetary relief. The Huddleston case settled for \$9,250,000 on behalf of 5,647 drivers, for a recovery of \$1,638 per class member.

6. Nearly all of my entire thirty-five-year legal career has been devoted to advocating for the rights of plaintiffs in the context of complex litigation and I have litigated hundreds of franchise, consumer, and employment law cases. I have served on California State Bar franchise and legal specialization committees. I earned my bachelor's degree from the American University, and I am a graduate of the University of the Miami School of Law.

7. My lodestar fee amount is currently \$120,336.00 consisting of 130.80 hours at the rate of \$914.00 per hour. Such fees and will increase with preparation and attendance at the final approval hearings, further correspondence with Class Members, and Settlement administration and oversight. If requested, I will supply the court with my detailed time records.

8. For all the reasons set forth in detail in co-counsel Carolyn Hunt Cottrell's declaration and the motion for final approval, it is my opinion that the proposed class resolution represents an excellent result for the Class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and is based on my own personal knowledge. Executed this 11 day of October, 2023, in San Rafael, California.

/s/ Robert Boulter
Robert Boulter