

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 ANDREW BEISSEL

I, Andrew Beissel, hereby declare as follows:

1. I am the Named Plaintiff in *Andrew Beissel and J&B Enterprises, Inc. v. Western Flyer Express, LLC*, pending in the United States District Court for the Western District of Oklahoma. I am over the age of eighteen. The following statements are based on my personal knowledge. If called on to do so, I could and would testify competently thereto.

2. I submit this declaration in support of the Motion for Final Approval of Class and Collective Action Settlement and the Motion for Attorneys' Fees and Costs and Service Award in this Action.

3. I worked for Defendant Western Flyer Express, LLC ("WFX") as Driver from approximately November 2019 to December 2019. As a Driver, I drove a semi-truck and hauled freight across the United States.

4. To drive for WFX, I signed an Independent Contractor Agreement and a Vehicle Lease Agreement. I contracted with WFX to provide driving services and leased a truck from WFX's affiliate. I used a corporation, J&B Enterprises, Inc., in my engagement with WFX.

5. I felt that the Driving Opportunity with WFX was not accurately represented to me. I felt that the economics and potential upside were overinflated. I paid for the bulk of the expenses of transporting the goods for WFX's customers, including such items as truck payments, fuel, maintenance, insurance, and other expenses associated with the Driving Opportunity. After paying expenses, I was left with little to no compensation despite spending long hours driving for WFX.

6. I believed that this conduct might violate the laws regarding business opportunities and misrepresentation. I decided to contact an attorney. Schneider Wallace Cottrell Konecky LLP and the Law Offices of Robert S. Boulter are my attorneys in this case.

7. I first reached out to my attorneys to discuss my experiences with WFX in approximately August 2020. I have been involved with this case for over three years.

8. Prior to filing the case, I had multiple telephonic interviews with my attorneys. Generally, we discussed my experiences with WFX, the law, and the kinds of claims I could pursue. We also discussed the risks of a case like this.

9. I knew that there was no guarantee that we would be successful in this case, and that there was a significant chance of protracted litigation. I understood I could potentially be liable for fees and costs, and that there was a risk that some of the claims

could be compelled to arbitration. I also understood that I could have to spend a significant amount of time in the discovery process.

10. Additionally, I realized that my name would be on a class and representative action, and that this information could be visible to others. The Named Plaintiffs in this case are myself and my company, J&B Enterprises, Inc. This is particularly significant for me, because I continue to work in the trucking industry and I continue to use my company in this line of work. I have concerns that other companies in this industry may look unfavorably on my involvement in a lawsuit like this.

11. Nonetheless, I felt strongly that WFX misrepresented the Driving Opportunity. I wanted to do something for myself and all WFX Drivers. Therefore, I decided to proceed as a representative plaintiff and file a lawsuit. I understood that I would serve as the Named Plaintiff and the representative of a proposed class of Drivers for claims under the Oklahoma Consumer Protection Act, the Oklahoma Deceptive Trade Practices Act, and other laws.

12. I worked with my attorneys to prepare the class action complaint. I supplied large amounts of information and documents to my attorneys to assist with the drafting process, including contracts, recruiting documents, and orientation papers. I reviewed a draft of the complaint. We filed the case on December 7, 2020.

13. I estimate that I devoted at least 15 hours to this case during the initial interviews with my attorneys and the complaint-drafting process.

14. Early in the case, I discussed alternative dispute resolution with my attorneys. In early 2022, we again discussed the possibility of a mediation in the hope of reaching a class-wide settlement. We had further discussions ahead of the July 19, 2022 mediation.

15. In the lead-up to mediation, I provided extensive amounts of further documents and information to my attorneys, including compensation records, instructions from WFX, bills of lading, insurance information and binders, and numerous other documents. I provided additional factual information to my attorneys at that time.

16. During the mediation, I remained on-call throughout the day. I stayed updated regarding the progress of the mediation session.

17. I estimate that I spent at least 20 hours during the mediation phase of the case communicating with my attorneys and compiling and reviewing my documents and records.

18. After the mediation, the Parties reached a proposed Joint Stipulation of Settlement and Release of Class and Collective Action ("Settlement Agreement"). The Settlement Agreement is a lengthy document, and I reviewed it closely. I carefully reviewed the terms. I discussed them with my attorneys. I spent time evaluating the proposed outcome to assure that it was fair. Based on my own review and my attorneys' evaluation and recommendation, I believe the Settlement Agreement is fair and reasonable. I signed the Settlement Agreement on November 29, 2022. I then carefully reviewed the Amended Joint Stipulation of Settlement and Release of Class and Collective Action, which I signed on April 26, 2023.

19. I estimate that I spent at least 6 hours carefully reviewing the Settlement Agreements and discussing the terms with my attorneys.

20. Throughout this action, I have been in constant communication with my attorneys to keep apprised of the status of the litigation. I have kept up-to-date on the status at every phase. I estimate that I have spent 5 hours on phone calls and emails regarding status updates with my attorneys.

21. In sum, I worked with my attorneys to prepare the complaint, contributed important information and documents for both the complaint and the mediation, participated actively in the mediation process, participated in the settlement decision and reviewed the Settlement Agreements, and otherwise remained in constant contact with my attorneys. I have been involved with this litigation for over three years, and during that time I have contributed dozens of hours of my own time to the prosecution of these claims.

22. By participating in this case as a Plaintiff, I placed myself at personal risk. For example, I faced: (a) risk to my reputation in my community as a result of stepping forward publicly in a class action; (b) risk to my reputation as it concerns my future trucking and employment opportunities; (c) risk that I would be subject to intrusive discovery and time demands in this litigation; and (d) risk that I would have to pay defense costs if I lost this case. Again, both my personal name and my company name are on this case, and I continue to work in the trucking industry and to use my company in this line of work. Nevertheless, I chose to face these risks to challenge the way that WFX treated its Drivers.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and is based upon my personal knowledge. Executed on 10 / 12 / 2023 in Fresno, Ohio.

A handwritten signature in black ink, appearing to read "Andrew Beissel". The signature is written in a cursive style with a large initial "A".

Andrew Beissel