

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

KEVIN SNIDER, on behalf of himself and all
others similarly situated;

Plaintiff,

v.

WILSON LOGISTICS, INC., a Missouri
corporation; and JIM PALMER TRUCKING
COMPANY, a Montana corporation,

Defendants.

NO. 18-2-19565-9 SEA

**DECLARATION OF ERIKA L. NUSSER IN
SUPPORT OF PLAINTIFF’S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

I, Erika L. Nusser, declares as follows:

1. I am a member of Terrell Marshall Law Group PLLC and co-counsel for Plaintiff in this matter. I am a member in good standing of the bar of the State of Washington. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. Plaintiff filed this lawsuit on August 8, 2018. On September 6, 2018, Defendants’ counsel contacted me to discuss the potential of early resolution.

1 3. To evaluate the potential of early resolution, we requested certain documents
2 and data to confirm the class size and to analyze damages. Among other things, we obtained
3 hours and payroll data, and took several months to analyze the potential damages in this case.

4 4. With this knowledge, the parties were able to engage in informed settlement
5 negotiations.

6 5. All of the parties' settlement negotiations have been non-collusive and at arm's
7 length. The parties have reached a class action Settlement in this case that Plaintiff and his
8 counsel believe is fair, adequate, reasonable, and in the best interests of the Class.

9 6. Plaintiff's Counsel have been working on this case for almost one year but have
10 not received any fees or reimbursements for their work or costs of the lawsuit.

11 7. To date, TMLG's total lodestar exceeds \$42,000 based on current hourly rates.

12 8. To date, TMLG has incurred \$658 in costs for filing fees, copying and mailing
13 expenses, and computer research.

14 9. I anticipate TMLG will incur an additional \$5,000 in fees and costs to obtain
15 final approval of the settlement and assisting the Settlement Administrator with the notice
16 and disbursement process.

17 10. TMLG is a law firm in Seattle, Washington that focuses on complex civil and
18 commercial litigation with an emphasis on consumer protection, product defect, employment,
19 wage and hour, real estate, personal injury, and civil rights matters. The attorneys of TMLG
20 have extensive experience in class actions, collective actions, and other complex matters.
21 They have been appointed lead or co-lead class counsel in numerous cases at both the state
22 and federal level. They have prosecuted a variety of multi-million-dollar consumer fraud, wage
23 and hour, securities fraud, and product defect class actions. The defendants in these cases
24 have included companies such as Wal-Mart, Microsoft, Best Buy, Toyota, Honda, Sallie Mae,
25 Comcast, ABM Industries, AT&T, T-Mobile USA, Weyerhaeuser, Behr Products, American
26 Cemwood, Bank of America, Discover, Chase, Capital One, and HSBC.

1 11. I am the lead attorney from TMLG in this case. I concentrate my practice in
2 complex litigation, including the prosecution of consumer, wage and hour, and civil rights
3 class actions. I have been actively involved in every aspect of dozens of class actions brought
4 on behalf of consumers, employees, and others, and have recovered millions of dollars and
5 obtained substantial injunctive relief for the represented groups.

6 12. I received a double B.A., with distinction, from the University of Washington in
7 2005. In 2008, I received my J.D. from the University of San Francisco School of Law,
8 graduating in the top 25%.

9 13. I have tried and won cases in state and federal courts and have also
10 successfully briefed and argued cases before the Ninth Circuit Court of Appeals and the
11 Washington State Court of Appeals. In *Ramirez v. Precision Drywall, Inc.* (King County Superior
12 Court), for example, I was appointed co-lead counsel for a certified class of 325 Washington
13 employees. After a five-week jury trial, we obtained a judgment of \$4.1 million. That judgment
14 was affirmed by the Washington Court of Appeals.

15 14. In *Smith v. JEM Group, Inc.*, 737 F.3d 636 (9th Cir. 2013), I served as co-lead
16 counsel on behalf of a proposed consumer class alleging defendants charged fees for debt
17 adjusting services in excess of those permitted by state consumer protection statutes. One
18 defendant appealed this Court's denial of a motion to compel arbitration, which was decided
19 post-*Concepcion*. I successfully briefed and argued the response before a Ninth Circuit panel,
20 which affirmed the denial of the motion to compel arbitration

21 15. I have been named to the annual Rising Star list by Washington Law & Politics
22 Magazine every year for the last seven years.

23 16. Examples of employment class or collective actions that TMLG is litigating or
24 has litigated to a successful completion include:

- 25 • *Sampson v. Knight Transportation, Inc., et al.*—Filed in 2016, TMLG
26 represents a proposed class of truck drivers in Washington who allege
 wage and hour violations. This case is currently pending before the

1 Washington Supreme Court on the following question certified by the
2 Western District of Washington: “Does the Washington Minimum Wage
3 Act require non-agricultural employers to pay their piece-rate employees
4 per hour for time spent performing activities outside of piece-rate work?”

- 5 • *Mendis v. Schneider National Carriers, Inc.*—Filed in 2014, TMLG
6 represents a certified class of more than 1,000 truck drivers in
7 Washington State who allege wage and hour violations. After several
8 years of litigation, TMLG reached a class-wide settlement of \$5.75
9 million. Final approval was granted by the U.S. District Court for the
10 Western District of Washington in November 2018.
- 11 • *Helde v. Knight Transportation, Inc.*—TMLG represented a class of
12 current and former truck drivers alleging violations of wage and hour
13 laws in Washington. After several years of vigorous litigation, TMLG
14 reached a class-wide settlement of \$1.45 million, not including
15 attorneys’ fees and costs. Final Approval was granted by the U.S. District
16 Court for the Western District of Washington in October 2017.
- 17 • *McCracken v. Pacific Cargo Services, LLC, et al.*—TMLG represented a
18 certified class of truck drivers in Washington and Oregon who alleged
19 wage and hour violations. After years of complex litigation in
20 Washington and Oregon Courts, TMLG reached a settlement of
21 \$475,000 on behalf of the class. King County Superior Court granted
22 final approval of the settlement in August 2017.
- 23 • *Witschel v. IMCO General Construction, Inc.*—Filed in 2013 in
24 Washington State Superior Court in and for Skagit County. TMLG
25 represented current and former hourly-paid employees who alleged
26 violations of Washington wage and hour law regarding rest breaks. The
case settled on a class-wide basis for \$1.1 million. Final approval of the
settlement was granted on June 16, 2016.
- *Tolliver, et al. v. Avvo, Inc.*—TMLG represented a class of current and
former sales employees who alleged they were misclassified as
overtime exempt. The case settled on a class-wide basis for \$1.75
million, and final approval was granted in September 2017.
- *Spencer v. FedEx Ground Package System, Inc.*—TMLG represented a
certified class of current and former delivery drivers who allege
violations of state wage and hour laws. The case settled on a class-wide
basis for \$10,500,000, and final approval was granted in December
2016.

- 1 • *Romatka, et al. v. Brinker International Payroll Company, L.P., et al.*—
2 Filed in 2013 on behalf of approximately 900 current and former hourly
3 employees who alleged wage and hour violations regarding failure to
4 provide rest breaks and failure to properly disclose service charges.
5 TMLG obtained a \$900,000 settlement on behalf of the Class. The
6 settlement received final approval on March 6, 2015.
- 7 • *Newell v. Home Care of Washington, Inc., et al.*—TMLG represented a
8 class of more than 400 in-home health care workers who alleged
9 violations of state wage and hour law. The class was certified on
10 December 20, 2012 by the Honorable Linda Tompkins, in Washington
11 State Superior Court, in and for Spokane County. This case settled in
12 2014 and received final settlement approval in early 2015.
- 13 • *Paz v. Sakuma Brothers Farms, Inc.*—TMLG represents a class of almost
14 1,000 migrant and seasonal berry pickers who alleged violations of state
15 wage and hour law and the federal Agricultural Worker Protection Act.
16 The primary claims in the case settled for \$850,000 plus an agreement
17 on injunctive relief in May 2014; preliminary approval of the settlement
18 was granted by the Honorable Marsha J. Pechman in the United States
19 District Court for the Western District of Washington in July 2014, and
20 final approval was granted in November 2014. TMLG successfully
21 litigated additional claims not covered by the 2014 settlement, which
22 resulted in a unanimous opinion by the Washington Supreme Court in
Lopez Demetrio v. Sakuma Brothers Farms, Inc., 183 Wn.2d 649 (2015).
Following the Washington Supreme Court decision, the court approved
a final settlement of all claims and ordered payment of Plaintiffs’
attorneys’ fees and costs in July 2016.
- *Ramirez, et al. v. Precision Drywall, Inc.*—TMLG represented a certified
class of workers who alleged they were not paid for overtime work. The
case was tried before a jury during a five-week period in 2010, and
TMLG successfully obtained a judgment for the workers in excess of
\$4,000,000. TMLG continues to work on enforcing the judgment against
multiple defendants. An initial distribution of funds collected so far was
made to eligible class members in April 2016.

23 17. Examples of consumer protection class actions that TMLG is litigating or has
24 litigated to a successful completion include:

- 25 • *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on behalf of
26 consumers who purchased defective flooring. TMLG represents a

1 nationwide class of consumers as well as seven sub-classes of
2 consumers in the states of California, New York, Illinois, West Virginia,
3 Minnesota, Pennsylvania, and Florida. The case is pending in the United
4 States District Court for the Northern District of California.

- 5 • *Jordan v. Nationstar Mortgage, LLC*—TMLG represents a class of
6 homeowners who were improperly locked out of their homes by their
7 mortgage lender. The lawsuit is pending in the U.S. District Court for the
8 Eastern District of Washington. The Court granted summary judgment
9 on liability to the certified class in November 2017.
- 10 • *Breazeale, et al v. Victim Services, Inc., et al*—TMLG currently represents
11 a proposed class of consumers who allege violations of the FDCPA. The
12 lawsuit is pending in U.S. District Court for the Northern District of
13 California. The Ninth Circuit affirmed the District Court’s denial of a
14 motion to compel arbitration and denial of a motion to strike in
15 December 2017.
- 16 • *Cavnar, et al. v. BounceBack, Inc.*—Filed in 2014 on behalf of
17 Washington consumers who received false, misleading, and deceptive
18 debt collection letters printed on the letter head of county prosecuting
19 attorneys. TMLG worked to negotiate a class-wide settlement, and final
20 approval was granted in September 2016.
- 21 • *Baltzell v. Indiana Family and Social Services Administration, et al.*—
22 Served as co-counsel for a class of intellectually or developmentally
23 disabled persons whom were deemed ineligible for, denied services
24 from, or terminated from Medicaid waiver programs due to screening
25 conducted with improper protocols and instruments. The case settled,
26 and final approval was granted in 2016.
- *Soto v. American Honda Motor Corporation*—Filed in 2012 on behalf of
owners and lessees of 2008-2010 Honda Accords that consume motor
oil at a much higher rate than intended, due to a systemic design
defect. The case settled on a class-wide basis and final approval was
granted in March 2014.
- *Smith v. Legal Helpers Debt Resolution LLC*—Filed in 2011 on behalf of
consumers who were charged excessive fees for debt adjusting services
in violation of Washington law. Class settlements were approved by the
Court in December 2012 and December 2013.
- *Brown v. Consumer Law Associates LLC, et al.*—Filed in 2011 on behalf
of consumers who were charged excessive fees for debt adjusting

1 services in violation of Washington law. A class settlement was
2 approved by the Court in 2013.

- 3 • *Bronzich, et al. v. Persels & Associates, LLC, et al.*—Filed in 2010 on
4 behalf of consumers who were charged excessive fees for debt
5 adjusting services in violation of Washington law. A class settlement
6 was approved by the Court in 2013.
- 7 • *Milligan, et al. v. Toyota Motor Sales, Inc.*—Filed in 2009 on behalf of
8 owners of 2001-2003 Toyota RAV4s containing defective Electronic
9 Computer Modules, which cause harsh shifting conditions and
10 permanent damage to the transmissions. TMLG worked to negotiate a
11 nationwide class action settlement, and final approval was granted in
12 January 2012.
- 13 • *Kitec Consolidated Cases*—Served as co-counsel in a national class
14 action lawsuit against the manufacturers of defective hydronic heating
15 and plumbing systems. The case settled for \$125,000,000, and final
16 approval was granted in 2011.
- 17 • *Seraphin v. AT&T Internet Services, Inc., et al.*—A multi-state class action
18 filed in 2009 on behalf of AT&T internet customers who paid \$20 a
19 month or less for internet service and were assessed and Early
20 Termination Fee when they cancelled service. A class settlement was
21 approved by the Court in 2011.

22 18. Examples of civil rights class actions TMLG is litigating or has litigated to a
23 successful completing include:

- 24 • *Wilbur v. Mount Vernon, et al.*—TMLG was appointed co-lead class
25 counsel for a certified class of indigent defendants in Mount Vernon and
26 Burlington, Washington who were not being provided meaningful
access to a public defender. After three years of litigation and a nine-
day bench trial, TMLG prevailed and obtained substantial injunctive
relief on behalf of the class.
- *Fuentes, et al. v. Benton County*—In 2015 TMLG filed a class action on
behalf of indigent defendants in Benton County who were being jailed
because they could not afford to pay their legal financial obligations,
such as court fines, fees, penalties, or costs. The case settled in 2016,
obtaining substantial injunctive relief on behalf of the class.

