

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA

TROY SLACK, JACOB GRISMER, RICHARD
ERICKSON, SCOTT PRAYE, GARY H.
ROBERTS, ROBERT P. ULRICH, HENRY
LEDESMA, TIMOTHY HELMICK, DENNIS
STUBER, ERIC DUBLINSKI, SEAN P.
FORNEY, individually, and on behalf of the
Certified Class,

Plaintiffs,

v.

SWIFT TRANSPORTATION CO. OF
ARIZONA, LLC,

Defendant.

CLASS ACTION

No. 3:11-cv-05843-BHS

DECLARATION OF JEFFREY D. BOYD IN
SUPPORT OF PLAINTIFFS' MOTION FOR
AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION COSTS

DECLARATION OF JEFFREY D. BOYD

I, JEFFREY D. BOYD, hereby declare and state as follows:

1. I am an attorney licensed to practice in the Western District of Washington. I am a partner in the law firm of Nelson Boyd, PLLC. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Service Awards.

Declaration of Jeffrey D. Boyd - 1

NELSON BOYD, PLLC
411 University Street, Ste 1200
Seattle, WA 98010
(206) 971-7601

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2. My firm and I have been involved in this case since the Fall of 2010, when I first started talking to Swift drivers about their compensation system in light of the decision in *Bostain v. Food Express, Inc.*, 159 Wash. 2d 700, 153 P. 3d 846 (2007). Nelson Boyd screened and spoke with more than a dozen Swift drivers who were potential class representatives and signed them up as clients. We made several trips to Eastern Washington to meet with potential class representatives in person and for periodic status meetings that we conducted. Nelson Boyd was counsel for Plaintiffs in the initial Complaint and Amended Complaint which were filed in State Court (before the case was removed to Federal Court). Nelson Boyd received, reviewed, and organized voluminous documents from Swift drivers, pre-suit, and as a part of discovery.
3. Throughout this phase of the case, Nelson Boyd was local and liaison counsel with the Cochran Firm, P.C., of Dothan, Alabama. The Cochran Firm has experience in class action and wage-and-hour cases, and were involved at that time with another case based on the *Bostain* opinion involving Washington-based truck drivers.
4. The Motion for Class Certification was filed June 28, 2013. Nelson Boyd filed declarations setting forth their professional experience. Class Certification was granted (in part) on November 20, 2013.
5. In July 2015, the Court issued an Order to Show Cause why the case should not be decertified due to the Court's stated concerns regarding the role of class counsel. Nelson Boyd contacted each individual Plaintiff to advise them of the Order to Show Cause and obtain their written permission to bring the Hagens Berman firm into the case to represent the class.
6. The Court appointed Hagens Berman as substitute Class Counsel in September 2015. Although the Court did not specifically appoint NB when HB was substituted, we continued to serve as liaison counsel. After Hagens Berman was added as Class Counsel, Nelson Boyd continued to provide significant support to the Class, always with the permission of or at the request of Hagens Berman.
7. Nelson Boyd assisted the transition of the case from the Cochran Firm to Hagens Berman and remained in contact with Class Representatives, appeared in court at the July, 2016 Motion hearing, sent multiple status updates to the Class Representatives, assisted with discovery issues, regularly communicated with Hagens Berman lawyers and with the Class Representatives, and attended the first mediation.
8. I am familiar with the work that Hagens Berman did as class counsel and the excellent results they achieved for the Class as I was involved in the case throughout and

1 through settlement. I am also familiar with the hours they spent on the case, Hagens
2 Berman's fees and expenses, and its settlement of the case. I understand that Hagens
3 Berman is seeking fees and expenses of \$ 2,050,000 pursuant to the Settlement
4 Agreement, which is an amount that Swift agreed to pay after negotiations after the
5 parties reached an agreement to settle the Class's claims. I understand that this
6 amount is substantially less than the full value of Hagens Berman's services; that the
7 amount represents a fractional multiplier that HB has agreed to take to maximize the
8 benefit and recovery to the Class.

9 9. Based on this information, I support the Hagens Berman fee petition in its entirety.

10 10. In addition, I fully support the award of \$7,500 to each Class Representative as service
11 awards. I am personally familiar with the time and commitment each Class
12 Representative devoted to the recovery on behalf of themselves and their fellow class
13 members during all phases of the case. It was an extraordinary amount of work and
14 time that spanned more than seven years.

15 11. To compensate Nelson Boyd for its work on this case for the benefit of Plaintiffs and
16 the Class, Nelson Boyd will not seek to recover its fees and expenses separate from
17 Hagens Berman. Hagens Berman has agreed to pay Nelson Boyd 6.25% of the amount
18 it is awarded for attorneys' fees, and to reimburse Nelson Boyd's actual costs from the
19 fees and costs the Court awards to Hagens Berman. By agreeing to take this set
20 percentage, Nelson Boyd is seeking recovery at a reduced rate, consistent with the
21 fractional multiplier that Hagens Berman has agreed to take, in order to maximize the
22 benefit and recovery to the Class.

23 I declare under penalty of perjury under the laws of the United States of America and
24 the State of Washington that the foregoing is true and correct.

25 Executed at Seattle, Washington, on this 19th day of November, 2018.

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JEFFREY D. BOYD, WSBA #41620

CERTIFICATE OF SERVICE

I, hereby certify that on this 19th day of November 2018, the foregoing was electronically filed with the Clerk of the United States District Court for the Western District of Washington, Seattle, using the CM/ECF system, which will send notification of such filing to the below counsel:

/s/ Jeniphr A.E. Breckenridge
JENIPHR A.E. BRECKENRIDGE

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