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2 THE HONORABLE JOHN McHALE
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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
9 COUNTY OF KING

10 JOSEPH LOWRY, JAMES PHILP, MARK
11 SANDERS, AARON TAYLOR, individually
12 and as representatives for the class of
13 similarly situated employees,

14 Plaintiffs,

15 v.

16 RALPH'S CONCRETE PUMPING, INC., a
17 Washington corporation,

18 Defendant.

NO. 12-2-40087-3 KNT

**DECLARATION OF WILLIAM
HOUCK IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND FOR AWARD
OF ATTORNEYS' FEES, COSTS,
AND SERVICE AWARDS**

19 I, William Houck, declares as follows:

20 1. I am co-counsel for the Plaintiffs and certified classes in this matter. I am
21 a member in good standing of the bar of the State of Washington. Except where
22 otherwise noted, I have personal knowledge of the facts set forth in this declaration
23 and could testify competently to them if called upon to do so. I respectfully submit this
24 Declaration in Support of Plaintiffs' Motion for Approval of Payment of Attorneys' Fees
25 and Costs.

26 2. I am one of Plaintiffs' lead counsels and I am skilled in the litigation,
27 certification, trial, and settlement of class actions. I have 40 years of experience on

1 complex civil litigation with an emphasis in the past 25 years on class actions. During
2 that time, I have been involved in litigating over 40 class action lawsuits.

3 3. Since the beginning of this case, I have worked with no guarantee of
4 being compensated for my time and efforts. Payment of my fees has always been
5 contingent on successfully obtaining relief for the Plaintiffs and proposed class
6 members. As a result, there was a substantial risk of non-payment, particularly
7 considering the challenges inherent in this type of case. Work on this case has
8 necessarily been to the exclusion of work on other matters that likely would have
9 generated fees. I have also been denied use of the fees earned over the course of this
10 case.

11 4. It is my regular practice to keep contemporaneous time records,
12 maintained daily, and describing tasks performed in 0.1-hour increments. I enter time
13 into an electronic timekeeping system daily.

14 5. I set my rates based on a variety of factors, including: the experience,
15 skill, and sophistication required for the type of legal services typically performed in the
16 matter; the rates customarily charged in similar matters; and my experience,
17 reputation, and ability. I recorded all my time in this matter at the rate of \$575.00 per
18 hour, a rate which I believe to be fair and reasonable.

19 6. I started working on this case in November of 2012. Since then I have
20 contributed to the successful outcome by performing the following work, among other
21 things: working on case strategy; developing the factual record; interviewing
22 witnesses; researching and analyzing legal issues; drafting written discovery requests
23 and responses; taking and defending depositions; briefing and arguing motions;
24 working with experts; and engaging in settlement negotiations. The following table
25 summarizes in more detail the work I performed in this case.

DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
ATTORNEY HOUCK			
<p>Reviewed factual background and analyzed firm's potential involvement in case; interviewed class Plaintiffs Joe Lowry, Aaron Taylor, Mark Sanders and James Philp; prepared complaint with co-counsel; met and interviewed other class members to compile evidence to prosecute this lawsuit; meetings with named class members on multiple occasions including preparing them for and attending their depositions; several meetings with class members' union, International Union of Operating Engineers Local 302; reviewed hundreds of union documents including CBA; reviewed thousands of discovery documents produced by Defendant and L&I; legal research regarding recovery of double damages, prevailing wages, travel time, break time, standby time; drafted interrogatories; answered interrogatories; summarized discovery; worked with expert Neil Beaton and his assistant to develop damages; engaged in motion work; attending hearings; researched, drafted and argued the motions described in paragraphs 10-12; reviewed and advised on later motions; participated in regular telephone conferences and email correspondence with co-counsel regarding case strategy and trial preparation; researched issues regarding DLI's prevailing wage determination; researched and analyzed issues regarding witness disclosures; analyzed legal issues relating to meal and rest break claims; analyzed issues relating to CR 68 offer of judgment; worked on response to defendant's motion to compel; drafted supplemental discovery responses; telephone and email correspondence with co-counsel and with opposing counsel regarding discovery issues; telephone calls with class members regarding scheduling depositions and factual issues; reviewed and edited briefs; worked on damages analysis; worked with expert on damages calculations; prepared for, traveled to, and attended the depositions of Mr. Frietas; took the first deposition of Ms. McGinnis; travel to and attended depositions of representative of Frontier Pumping, traveled to and attended depositions of Mr. Johnson, Mr. Eldridge, and Mr. Phillips; prepared for and attended hearing on defendant's motion for partial summary judgment and plaintiffs' motion for partial summary judgment; prepared for and attended depositions of Tim Henson and Ms. McGinnis; prepared for and took deposition of Josh Gribble; participated in mediation and subsequent settlement discussions.</p>	\$575	842.38	\$483,018

1 7. To date, I have spent more than 842 hours prosecuting this case. My
2 total lodestar to date is \$483,018 at my standard rate. My lodestar calculation is based
3 on a reasonable hourly rate, which is consistent with the factors identified in RPC 1.5.

4 8. My lodestar calculations are based on reasonable hourly rates, and
5 numerous federal and state courts in Washington and elsewhere have approved fee
6 requests by me that were based on similar rates in place at the time of application.
7 These include *Kerbs v. Progressive Insurance*, King County, No. 10-2-30608-1;
8 *Schnall v. AT&T Wireless Services, Inc.*, King County, 02-2-05776-4; and *Lowden v.*
9 *T-Mobile USA, Inc.*, (W.D. Wash.).

10 9. As of the date of this declaration, I have incurred \$39,927.30 in
11 reasonable litigation costs as follows:

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13	Service of Process and Subpoenas	\$925.25
14	Expert Fees	\$33,893.50
15	Deposition Expenses	\$3,812.34
16	Court Filing Fees	\$448.82
17	Mediation	\$625.00
18	Travel: Parking	<u>\$222.39</u>
19	Total	\$39,927.30

20 10. The parties engaged in substantial discovery in this case. During 2013,
21 Plaintiffs propounded multiple sets of interrogatories and requests for production.
22 Plaintiff Lowry responded to Defendant's first set of discovery requests to him. All four
23 named Plaintiffs had their depositions taken. Ralph's also deposed Jeromy Frietas, an
24 absent class member. Plaintiffs deposed Brenda McGinnis, Ralph's controller.

25 11. Class notice was first issued in this case in early September 2016.
26 Seven individuals who received that notice opted out.

27 12. During 2017 and early 2018, The parties engaged in further discovery.
Defendant took depositions of 11 absent class members, as well as of Jim

1 Christensen from the Department of Labor and Industries; Neal Beaton, Plaintiffs'
2 expert; and Michael Locquiao, 30(b)(6) designee for Frontier Pumping. Plaintiffs
3 conducted a 30(b)(6) deposition of Ralph's, as well as depositions of Timothy Henson
4 and Travis Henson. Both sides propounded additional written discovery requests.

5 13. I believe the settlement reached in this case is fair, reasonable,
6 adequate, and in the best interests of the Settlement Classes.

7 14. I believe the named Plaintiffs should be recognized for their service to
8 and efforts on behalf of the Class. Mr. Lowry, Mr. Philp, Mr. Sanders, and Mr. Taylor
9 assisted Class Counsel in investigating the claims and understanding the factual
10 background of the lawsuit. All four Plaintiffs responded to discovery requests and sat
11 for depositions. Plaintiffs were prepared to testify at trial, if necessary. Each Plaintiff's
12 support of the settlement is independent of any service award and is not conditioned
13 on the Court awarding any award at all.

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

16 Executed in Issaquah, Washington this 31st day of October, 2018.

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18 By: /s/ William Houck WSBA #13324
19 William Houck, WSBA #13324
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