

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR KING COUNTY

9 KRIS HARDIE, individually and on behalf of all
10 others similarly situated,

11 Plaintiff,

12 vs.

13 BEST PARKING LOT CLEANING INC., a
14 Washington Corporation,

15 Defendant.

NO. 17-2-27730-4 KNT

**DECLARATION OF DANIEL
CAIRNS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
CURATIVE RELIEF UNDER CR
23(d)(2)-(3)**

16 I, DANIEL CAIRNS, declare and say as follows:

17 1. I am an attorney at Rekhi & Wolk, P.S., one of Plaintiff's counsel in this
18 matter.

19 2. I took the following depositions today:

- 20 a. **Adrian Nelms** – Former Class Member and Defendant's current employee –
21 March 21, 2019 at 9:00 a.m.
22 b. **Morgan Bell** – Former Class Member and Defendant's current employee –
23 March 21, 2019 at 11:00 p.m.

1 3. Both Mr. Nelms and Mr. Bell had previously submitted declaration in this
2 lawsuit and signed opt-out forms in this lawsuit.

3 4. During their respective depositions, both Mr. Nelms and Mr. Bell today
4 testified that the declarations were drafted for them by a woman whom they did not know.
5 Neither of them knew who this woman was. Both of them testified they were at work when
6 they met with this woman. Both of them testified they were on the clock when they signed
7 the declarations. Neither of them could recall given the woman any exhibits to attach to their
8 declarations. Neither of them could identify any claims in this lawsuit other than missed rest
9 or meal breaks. Both deponents testified that they did not know whether the lawsuit was for
10 prevailing wage claims, overtime claims, travel time claims, or time worked but not paid.

11 5. Morgan Bell testified that he did not know that his declaration would be
12 submitted to the court or used in a lawsuit. He stated he believed the declaration was his
13 opportunity to opt out of the lawsuit. He stated he wished to opt out because he did not like
14 Kris Hardie and he felt he had received all his meal and rest breaks. He testified that he did
15 not know of any other claims being made in this lawsuit at the time he signed his declaration.
16 Mr. Bell also testified that when he signed the declaration he had not reviewed it and believed
17 it had something to do with Mr. Hardie. He testified that he had never seen at least one of the
18 exhibits attached to his declaration. He believed the lawsuit was only about meal and rest
19 breaks. He testified he did not know that the declaration or his email would be submitted to
20 the Court which contradicts the declaration itself.

21 6. Mr. Bell testified that he signed an opt-out form on March 1, 2019. He testified
22 that the opt-out form and an addressed envelope were provided for him at work. He testified
23

1 that he had received the class notice on the day before he signed the opt-out, which is February
2 28, 2019.

3 7. Mr. Adrian Nelms testified that when he signed the declaration, he had not
4 reviewed it and instead only believed it had something to do with Mr. Hardie. He testified that
5 he had never seen the exhibits attached to his declaration. He testified he had not provided
6 Ms. Craig with any handwritten notes about this lawsuit. Which contradicts his declaration.

7 8. Mr. Nelms testified that he signed the opt-out form on March 1, 2019. He
8 testified that he had not received the class notice before signing the opt-out form. He testified
9 that he was not aware what the class notice looked like.

10 9. In December 2018, I reviewed all 50 declarations submitted by Defendant and
11 attached to its Opposition to Plaintiff's Motion for Class Certification.

12 10. As I previously described to the court in my declaration in support of Plaintiff's
13 Reply in Support of Class Certification, there are multiple irregularities with the declarations
14 submitted by Defendant and attached to its Opposition to Plaintiff's Motion for Class
15 Certification. Attached hereto as **Exhibit 1** is a chart, which is an illustrative exhibit I created
16 based on review of the declarations submitted by Defendant and attached to its Opposition to
17 Plaintiff's Motion for Class Certification.

18 11. Attached as **Exhibit 2** is a true and correct copy of excerpts of the Deposition
19 of Rebecca Craig taken on November 19, 2018.

20 I declare under penalty of perjury under the laws of the State of Washington that the
21 foregoing is true and correct and that this declaration was executed in Seattle, Washington, on
22 the 18th day of March, 2019.

23 /s/ Daniel Cairns, WSBA #49950

Daniel Cairns, WSBA #49950

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Exhibit 1

Name	On Class List	Current Employee or Ongoing Business Relationship	Discusses Overtime	Discusses Travel Time	Discuss Pre-op/Post-op Worked Not Paid	Claims Not Owed Money	Rebecca Craig Asked to Sign "Hardy" Dated	Signed Puyallup/Summer	Irregularities	Cited in Opp		
Jacob William Anderson	Y	Y	N	N	N	Y	Y	Y	11/19/2018	Y		N
Greg Bachman	Y	N	N	N	N	Y	Y		11/19/2018	Y		N
Sheldon Barnes	Y	Y	N	N	N	Y	Y		11/16/2018	Y*	Place of signature is "Shop"	N
Robert Bartro	Y	Y	N	N	N	Y			11/19/2018	Y		N
Morgan Bell	Y	Y	N	N	N			Y	11/19/2018	Y	No penalty of perjury language	Y
David Bingham	Y	Y	N	N	N	Y			11/16/2018	Y		N
Michael R. Cain	Y	Y	N	N	N				Undated	Y	Unsigned	Y
Caleb Chalcraft	Y	Y	N	N	N	Y			11/16/2018	Y	Mentions email in ¶7, but nothing attached to declaration	N
Sokha Chith	Y	N	N	N	N	Y			11/19/2018	Y		N
William Craig	Y	Y	N	N	N	Y	Y		11/19/2018	Y		N
Danial Dean	Y	Y	N	N	N	Y			11/16/2018	Y		Y
Dwight Dorr	Y	Y	N	N	N	Y			11/19/2018	Y		Y
Richard Feeder II	Y	Y	N	N	N	Y	Y		11/19/2018	Y	Email attachment is from "Rob Mason"	N
Joe Fisher	N	Y	N	N	N	Y			11/19/2018	Y		N
Nicholas Foss	Y	Y	N	N	¶6	Y			11/19/2018	Y	No penalty of perjury language	Y
Jay Fox	Y	Y	N	N	N	Y	Y	Y	11/16/2018	Y		Y
Royce Gentry	Y	Y	N	N	N	Y			11/19/2018	Y		Y
Brandon Gibbs	Y	N	N	N	N	Y			11/19/2018	N		Y
Raymond Hartley	N	Y	N	N	N	Y			11/19/2018	Y	Signature page begins with sentence fragment	N
David Hoff	Y	Y	N	N	N	Y			11/19/2018	Y		Y
Tyler Homestead	Y	Y	N	N	N			Y	11/19/2018	Y	Two ¶11s, one on signature page and one on preceding page. Email attachment is from "Ryan" with company email address.	N
Pat Howard	Y	Y	N	N	N				11/19/2018	Y		N
John Johnson	Y	N	N	N	N	Y	Y		11/20/2018	N		Y
Robert Johnson	Y	Y	N	N	N	Y	Y	Y	11/19/2018	Y		Y
Stephanie Johnson	N	Y	N	N	N		Y		11/19/2018	Y		N
Michael Keller	Y	Y	¶5	N	N	Y			11/19/2018	Y	Signature page does not match preceding page	N
Greg Kowalski	Y	Y	N	N	N	Y	Y	Y	11/19/2018	Y	Page preceding signature page ends in sentence fragment	N
Lester Lehto	N	Y	N	N	N	Y			11/19/2018	Y		N
Tony Mayweathers	Y	Y	N	N	N	Y			11/19/2018	Y		N
Steve Martin	Y	Y	N	N	N	Y	Y		Undated	Y	No place of signature or date or penalty of perjury language	Y
Nolan Mcgee	Y	Y	N	N	N	Y			11/19/2018	Y	Two ¶10s, one on signature page and one on preceding page	Y
Ryan Mcglamery	Y	Y	N	N	N	Y	Y	Y	11/16/2018	Y		N
Jason Mckay	Y	Y	N	N	N	Y	Y	Y	11/19/2018	Y	"Has never seen documents about the law suit."	N
James McMahan	N	Y	N	N	N		Y		11/16/2018	Y		Y
Fred Misner	Y	Y	N	N	N				11/17/2018	Y	Attachment is illegible	N
Toribio Morales	Y	Y	N	N	N	Y			11/19/2018	Y		N
Adrian Nelms	Y	Y	N	N	N	Y			11/16/2018	Y	No penalty of perjury language	Y
Matt Nelson	Y	Y	N	N	N	Y	Y		11/16/2018	Y		Y

Name	On Class List	Current Employee or Ongoing Business Relationship	Discusses Overtime	Discusses Travel Time	Discuss Pre-op/Post-op Worked Not Paid	Claims Not Owed Money	Rebecca Craig Asked to Sign "Hardy"	Dated	Signed Puyallup/Summer	Irregularities	Cited in Opp	
Elizabeth Palos (Lewis)	N	Y	N	N	N	Y		11/19/2018	Y		N	
John Raring	N	Y	N	N	N	Y		11/20/2018	N		N	
Josh Riddle	Y	Y	N	N	N		Y	Y	11/16/2018	Y	N	
Charles Ritzman	N	Y	N	N	N	Y			11/19/2018	Place of signature is "0555"	N	
Daniel Elijah Rivera	N	Y	N	N	N				11/19/2018	Y	N	
Trip Sharp	Y	Y	N	N	N	Y	Y		11/19/2018	Y	Name misspelled on declaration. Attached email is from "rebecca@bestparkinglot.com"	N
Toney Simas	N	Y	N	N	N	Y			11/19/2018	Y		N
Gary Smith	Y	Y	N	N	N				11/19/2018	Y		N
Addison Stephens	Y	Y	N	N	N	Y		Y	11/16/2018	Y		Y
Jeff Stroud	Y	Y	N	N	N	Y	Y		11/16/2018	Y		Y
Thomas Varelmann	Y	Y	N	N	N	Y	Y		11/19/2018	Y	Rebecca Craig's son	N
William Young	Y	Y	N	N	N	Y		Y	11/19/2018	Y		N

Exhibit 2

1 A No.

2 Q That safety meeting where you talked about
3 the lawsuit, when did that happen?

4 A February.

5 Q Of what year?

6 A 2018.

7 Q Do you know which date it happened?

8 A Not off the top of my head, but I do know
9 the date of the safety meeting.

10 Q Is there an agenda for this meeting?

11 A An agenda?

12 Q Yeah. Was there an agenda for that
13 meeting?

14 A Yeah. It's usually notes, uh-huh.

15 Q Who made those notes?

16 A I do.

17 Q Did you lead that meeting?

18 A Yes.

19 Q Did you write the agenda for that meeting?

20 A Yes.

21 Q When did you plan to have that meeting?

22 A We have one the first Thursday of every
23 month.

24 Q So would it be safe to say this happened
25 the first Thursday February of 2018?

1 A Class members.

2 Q Could you think of any specific class
3 members?

4 A Off the top of my head..... If I had a
5 list, I could tell you who'd come up to me almost every
6 single time wanting to know when it's going to be over.

7 Q Are you saying that if I showed you a list
8 of current employees who are class members and asked you
9 if you could tell me if they talked to you, you could
10 tell me who talked to you?

11 A Probably.

12 Q Do any of these conversations stand out to
13 you?

14 A No.

15 Q Did this lawsuit come up in the September
16 safety meeting?

17 A Yes. Again, we review the meal and rest
18 breaks at every single safety meeting since February.

19 Q Ms. Craig, I am not asking about meal and
20 rest breaks. I am asking about this lawsuit.

21 A Yes, we talk about the lawsuit at every
22 single safety meeting.

23 Q Since when?

24 A February.

25 Q So since February you have talked about

1 this lawsuit at every single safety meeting.

2 A Yes.

3 Q Not including this one?

4 A (No audible response.)

5 Q I believe you earlier testified that this
6 did not come up in the November safety meeting.

7 A Well, we talk about the meal and rest
8 breaks at every single safety meeting.

9 Q Has this lawsuit come up at every single
10 safety meeting since February 2018?

11 A The lawsuit that Kris Hardie is suing us
12 over his meals and rest breaks and his hours?

13 Q Yes.

14 A Yeah. It comes up.

15 Q Who brings it up?

16 A Different people, different times. It
17 always comes up though. I haven't had a meeting since
18 then that somebody hasn't brought it up and wanting to
19 know what is going on with it, if they could start
20 waiving their lunches, they could stop doing this.

21 Q Do they bring it up during the meeting?

22 A Sometimes.

23 Q Who has brought it up during the meeting?

24 A I am not sure.

25 Q How many people have brought it up during