

**DECLARATION OF RACHEL SMIT**

*Submitted in support of Plaintiff's application for attorneys' fees in  
Case 3:23-cv-01757-X, Fredericks v. Ameriflight, LLC*

**I. My Role in the Case**

1. I served as counsel of record in this case, along with Towards Justice, Ashley Tremain, and Student Borrower Protection Center.

2. My primary role was as discovery counsel. That role included both affirmative and defensive discovery.

3. In terms of affirmative discovery, I prepared drafts of discovery requests, reviewed discovery responses and document production, followed up on identified discovery deficiencies, identified deponents, prepared for and took the depositions of three high-level Ameriflight executives over four sittings, provided relevant discovery to Plaintiff's expert, and identified relevant discovery for Plaintiff's motion practice.

4. With regards to defensive discovery, I prepared drafts of discovery responses on behalf of the named plaintiff, assembled and served her document production, and defended her in-person deposition in Dallas, TX. I also oversaw opt-in discovery, which included supervision of a then-first-year associate at Fair Work, P.C., Alisha Patel, who communicated and coordinated with the 18 opt-in plaintiffs to respond to a total of no less than 594 discovery requests (including interrogatories, document requests, and requests for admission). I further defended the deposition of one opt-in plaintiff, which was conducted in-person in Dallas, TX, and assisted Attorney Patel with preparing for the deposition of an opt-in plaintiff that she defended.

5. I also served as the point person for the initial notice process and the settlement notice, which included drafting the notices, preparing the relevant motions for approval, and coordinating with the notice administrator to ensure effective notice.

6. In addition to my role as discovery counsel, I was responsible for substantive briefing, taking the lead on the opposition to Ameriflight's motion to transfer, the reply to Plaintiff's motion to dismiss Ameriflight's counterclaim, and the preliminary approval motion.

7. In preparing for mediation, I prepared the damages estimates and drafted the mediation statement, in addition to attending the in-person mediation in Dallas, TX, along with lead counsel Attorney Dempsey, and local counsel Ashley Tremain.

8. In addition, I reviewed and edited briefs drafted by my co-counsel.

9. Throughout the case, I played an active role in developing litigation strategy and communicating with defense counsel.

## **II. Time-Keeping Practices & Billing Judgment**

10. I keep contemporaneous records of my time in the ordinary course of my practice.

11. My time records through today's date reflect a total of 166.6 hours.

12. The chart below reflects an approximate breakdown of my hours by category. I strove to use my time efficiently throughout the course of litigation.

<b>Category</b>	<b>Hours</b>
Finalizing complaint, early motion practice (primarily drafting and finalizing opposition to Motion to Transfer), preparing joint status report	29.2
Pre-class certification discovery	44.8
Class certification, counterclaims, class and collective notice	22.7
Post-class certification discovery	28.12
Mediation, settlement, and related tasks	41.8
<b>Total</b>	<b>166.6</b>

13. I have exercised billing judgment by not billing all time devoted to short email exchanges and brief administrative tasks. I have also excluded from these records the time I spent traveling between Boston, MA, and Dallas, TX, for the named plaintiff's deposition, an opt-in plaintiff's deposition, and for the mediation, out of an exercise of billing judgment.

14. These records do not include the numerous hours that I anticipate spending on preparing the final approval motion, attending the final approval hearing in Dallas, TX, and serving as point person for settlement administration.

15. I am a 1999 graduate of Carleton College in Northfield, Minnesota. I graduated *magna cum laude*, with a B.A. in Sociology/Anthropology.

16. In 2007, I completed a two-year graduate program, which included coursework in Program and Policy Evaluation, Quantitative Analysis, Econometrics, Generalized Linear Models, and Labor Economics, and obtained my Master of Public Affairs with a concentration in Economics and Public Policy from Princeton University's School of Public and International

Affairs.

17. I obtained my *juris doctorate* in 2013 from Boston University School of Law, where I graduated *magna cum laude* and was awarded the Warren S. Gilford Humanity and Law Prize for commitment to public service.

18. During my first two years of legal practice, I was funded by the Skadden Fellowship Foundation to represent employees in cases of wage theft as an attorney with the Employment Law Unit at Greater Boston Legal Services.

19. I was admitted to the Massachusetts bar in 2013. I am also admitted to the U.S. District Courts for the District of Massachusetts, Eastern and Western Districts of Wisconsin, and the First Circuit Court of Appeals.

20. In 2015, I joined Fair Work, P.C., a public-interest private law firm in Boston, MA, which exclusively represents plaintiffs in employment-related matters.

21. I have served as class counsel, along with various colleagues, in the following cases that were either certified as class actions under the federal Rule 23 standard, or conditionally certified as collective actions under the Fair Labor Standards Act:

- a. *Roman v. Triton Logistics, Inc.*, No. 23 CV 15146, 2025 WL 1134191 (N.D. Ill. Apr. 16, 2025) (“Roman’s counsel are experienced class action litigators with experience in wage and hour, misclassification, and driver cases.”)
- b. *Florexil v. General Freight Experts, Inc.*, No. 23-cv- 60876 (S.D. Fla. Oct. 2, 2023) (conditionally certifying FLSA collective)
- c. *Roberts v. TransAm Trucking, Inc.*, No. 21-2073-JWB, 2023 WL 6376756,

- at \*20 (D. Kan. Sept. 29, 2023) (certifying hybrid Rule 23 and FLSA classes)
- d. *Gonzalez v. XPO Last Mile, Inc.*, 2022 WL 95930 (D. Mass. Jan. 10, 2022) (certifying Rule 23 class of Massachusetts delivery drivers)
  - e. *Montoya v. CRST Expedited, Inc.*, 311 F. Supp. 3d 411, 425 (D. Mass. 2018) (certifying Rule 23 class(es) of truck drivers as well as conditionally certifying FLSA collective action)
  - f. *Lichy v. Centerline Commc'ns LLC*, No. 15-CV-13339-ADB (D. Mass. Mar. 28, 2018) (conditionally certifying FLSA collective of cell phone tower technicians)
  - g. *Chebotnikov v. LimoLink, Inc.*, 2017 WL 2909808 at \*2 (D. Mass. Jul. 6, 2017) (certifying Rule 23 class of Massachusetts limousine drivers)

22. I have served as class counsel, along with various colleagues, in the following cases that were certified under the Massachusetts Rule 23 standard:

- a. *Jackson v. Sons of Divine Providence, Inc.*, No. 2016-2910-E (Mass. Super. Jun. 18, 2019) (certifying class of hourly nurses employed by Boston nursing home)
- b. *Palacio v. Job Done, LLC*, 35 Mass. L. Rptr. 145 (Mass. Super. April 18, 2018) (certifying class of workers jointly employed by staffing agency and worksite employer)
- c. *Bodkin v. Centerline Commc'ns LLC*, No. 2015-00265 (Mass. Super. Feb. 13, 2017) (certifying class of cell phone tower technicians)

23. I have additionally served as class counsel for a settlement class in *Roberson v. Unlimited Carrier, Inc., et al.*, No. 21-cv-00742 (N.D. Ill. Nov. 29, 2022), ECF No. 52, among

many other cases that settled prior to class certification, primarily in Massachusetts state court.

24. I co-counseled *Montoya* with Hillary Schwab, one of the two founders of Fair Work, playing an active role in all aspects of that litigation over approximately ten years. *Montoya* resulted in a \$12.3 million settlement benefitting approximately 37,575 current and former drivers in the monetary and non-monetary relief classes. *See Montoya*, No. 1:16-cv-10095-PBS (D. Mass. May 19, 2021), ECF Nos. 347, 351. This was followed by CRST's appeal of a claim that had been carved out of the settlement, which was briefed and argued before the First Circuit Court of Appeals by Attorney Schwab. The First Circuit ruled in favor of the drivers, and final judgment subsequently entered against defendants in the agreed-upon amount of \$2.95 million. *See id.* at ECF No. 392.

25. I briefed (and argued, to the extent oral arguments were held) summary judgment, resulting in advantageous decisions for the plaintiffs, in the following cases: *Niiranen v. Carrier One, Inc.*, No. 20-CV-06781, 2025 WL 885701 (N.D. Ill. Mar. 22, 2025) (granting in part, denying in part cross-motions for summary judgment); *Gonzalez v. RXO Last Mile, Inc.*, No. CV 19-10290-FDS, 2024 WL 3696428 (D. Mass. Aug. 7, 2024) (denying cross-motions for summary judgment by defendant and partial summary judgment by plaintiff); *Roberts v. TransAm Trucking, Inc.*, No. 21-2073-JWB, 2023 WL 6376756 (D. Kan. Sept. 29, 2023) (with lead counsel Hillary Schwab) (granting in part, denying in part defendant's motion for summary judgment; denying plaintiff's motion for partial summary judgment); *Montoya v. CRST Expedited, Inc.*, 404 F. Supp. 3d 364, 373 (D. Mass. 2019) (awarding summary judgment to plaintiffs on Iowa Consumer Fraud Act claim); *Ferrara v. Voyport II, LLC*, No. 16-CV-12024-LTS, 2018 WL 5555066 (D. Mass. Oct. 29, 2018) (granting in part and denying in part plaintiff's motions: allowing summary judgment and default judgment, and entering damages as to Count I against corporate defendant); Memorandum

of Decision and Order on Cross-Motions for Summary Judgment, *Bentley v. VHS Transportation Co.*, Plymouth Superior Court, Civil Action No. 19-00894 (Jan. 4, 2022); *Galloway v. SimpliSafe, Inc.*, 36 Mass. L. Rptr. 191 (Mass. Super. Dec. 24, 2019); and *Palacio v. Job Done, LLC*, 35 Mass. L. Rptr. 145 (Mass. Super. April 18, 2018).

26. In January 2024, I second-chaired a jury trial with Fair Work's other founder, Stephen Churchill, resulting in a final judgment entered against the Defendants in an amount exceeding \$1 million. *Anderson v. Johnson & Johnson, Inc.*, Norfolk Superior Court, No. 2182CV00042 (Apr. 11, 2024).

**III. My Requested Rate of \$800 Per Hour is Customary and Reasonable.**

27. I exclusively represent clients on a contingency basis, because few, if any, of my clients could afford to pay me an hourly fee.

28. I have reviewed prevailing hourly rates awarded to attorneys in the Northern District of Texas by consulting the Texas Employment Lawyers Association, *2025 Attorney's Fees Hourly Rates Yearbook*, at p. 42-43, available at [mytela.org/feeyearbook](http://mytela.org/feeyearbook).

29. Based on my years of experience (13 years) and Attorney Dempsey's years of experience (11 years), I believe \$800 is a customary and reasonable rate, given that employment attorneys who graduated from law school in the 2010s have been awarded rates in the Northern District of Texas as high as \$1,180 (in 2021 dollars) and \$985 (in 2022 dollars).<sup>1</sup>

30. The reasonableness of this rate is further supported by recent decisions in the

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<sup>1</sup> *2025 Yearbook* at 61-62, citing *In re: Highland Capital Mgmt.*, No. 19-34054 (Bankr. N.D. Tex. Nov. 22, 2021), ECF No. 3048 at p. 3; *Thomas v. Cook Children's Health Care Sys.*, No. 20-cv-01272 (N.D. Tex. May 16, 2022), ECF No. 138-3, at p. 145.

Northern District of Texas. *See, e.g., Plunkett v. FirstKey Homes LLC*, No. 3:23-CV-2684-L-BN, 2024 WL 5315330, at \*10 (N.D. Tex. Nov. 21, 2024), *report and recommendation adopted sub nom. Plunkett v. First Key Homes LLC*, No. 3:23-CV-2684-L-BN, 2024 WL 5075065 (N.D. Tex. Dec. 11, 2024) (finding \$775 a reasonable hourly rate for lead counsel in 2024); *Hill v. Schilling*, No. 3:07-CV-2020-L, 2022 WL 1321548, at \*5 (N.D. Tex. May 3, 2022) (taking judicial notice of 2013 law school graduate's hourly rate of \$860 in 2021, which had subsequently been raised to \$935 per hour in 2022).

#### **IV. Other Fair Work Timekeepers**

31. I enlisted the efforts of Attorney Patel, who was then a first-year associate at Fair Work to assist me with opt-in discovery in 2025.

32. Attorney Patel graduated from Northeastern University School of Law in 2024 and was admitted to the Massachusetts bar in the same year. She joined Fair Work, P.C. in August 2024.

33. Attorney Patel keeps contemporaneous records of her time.

34. She has recorded 94.7 hours devoted to this litigation, including communicating and coordinating with 18 opt-in plaintiffs, attempting to establish communications with four other opt-in plaintiffs, drafting discovery responses, and assembling and producing documents, among other tasks.

35. I believe that \$250 is a more than reasonable hourly rate for a first-year associate for work performed in 2025, based on the Fitzpatrick Matrix.

36. The Fitzpatrick Matrix, which is attached as Exhibit 1 to the declaration of Persis

Yu, indicates that a reasonable hourly rate for an attorney with one year of experience is \$561 in complex civil cases in the U.S. District Court for the District of Columbia. The proposed rate of \$250 for use in calculating lodestar fees for Attorney Patel is less than half the indicated rate.

**V. Costs**

37. I am familiar with all litigation costs incurred by Plaintiff’s counsel in the prosecution of this litigation, having personally reviewed all invoices and receipts. These costs have been incurred by Fair Work, Towards Justice, and SBPC, and they total \$37,158. Costs were incurred in the following categories:

Filing fees and <i>pro hac vice</i> fees (D.P.R. and N.D. Tex.)	\$2,000
Depositions	\$6,699
Expert fees	\$15,238
Notice administration	\$1,975
Mediation	\$4,000
Travel and lodging for depositions and mediation (attorneys, named plaintiff, and opt-in plaintiffs)	\$6,852
<b>Total</b>	<b>\$37,158</b>

JURAT

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Boston, MA, on the 13th day of April, 2026.

/s/ Rachel Smit  
RACHEL SMIT