

SHORTLEGAL, APC  
350 10<sup>TH</sup> AVE., SUITE 1000  
SAN DIEGO, CA 92101

1 Brian R. Short (SBN 236140)  
Email: Brian@ShortLegal.com  
2 Dorota A. James (SBN 309933)  
Email: Dorota@ShortLegal.com  
3 **SHORTLEGAL, APC**  
350 10th Ave., Suite 1000  
4 San Diego, California 92101  
Telephone: 619.272.0720  
5 Facsimile: 619.839.3129

6 *Attorneys for Plaintiff Lila Burns*  
7 *[Additional Counsel listed on the next page]*

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO

10 LILA BURNS, Individually and on behalf of all  
11 similarly-situated employees of Defendants in  
the State of California,

12 Plaintiffs,

13 v.

14 DRIVELINE RETAIL MERCHANDISING,  
15 INC., a Corporation, and DOES 1 through 50,  
inclusive,

16 Defendants.

Case No.: 34-2018-00246691

**DECLARATION OF KIRA M. RUBEL IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
ORDER: 1) PROVISIONALLY CERTIFYING  
SETTLEMENT CLASS; 2) PRELIMINARILY  
APPROVING CLASS SETTLEMENT; 3)  
DIRECTING DISTRIBUTION OF NOTICE OF  
SETTLEMENT TO THE CLASS; 4)  
APPOINTING CLASS COUNSEL AND CLASS  
REPRESENTATIVE; AND 5) SETTING A  
HEARING FOR FINAL APPROVAL OF  
CLASS SETTLEMENT**

IMAGED FILE

CLASS ACTION [CCP § 382]

Date: October 17, 2019

Time: 2:00 p.m.

Judge: David I. Brown

Dept.: 53

Trial Date: None set

Complaint filed: November 2, 2017

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Kira M. Rubel (SBN No. 253970)  
**LAW OFFICE OF KIRA M. RUBEL, PLLC**  
krubel@kmrlawfirm.com  
3615 Harborview Drive, Suite C  
Gig Harbor, WA 98332-2129  
Telephone: 800.836.6531  
Facsimile: 206.238.169

1           1.       My name is Kira M. Rubel and I am co-counsel in the above captioned matter. I make the  
2 following statements based upon personal knowledge and, if called upon to testify regarding the facts  
3 contained herein, can and would do so competently.

4           2.       On December 17, 2018, co-counsel and I filed the above captioned matter against  
5 Defendant Driveline Retail Merchandising, Inc. (“Defendant” or the “Company”) alleging wage and  
6 hour violations.

7           3.       Prior to filing, both Mr. Short and I performed significant research into the factual basis  
8 of the claims against Defendant, which included numerous conversations with Plaintiff Lila Burns and  
9 background research into the Company.

10          4.       We also composed and sent a letter to the LWDA in November 2018.

11          5.       We filed Plaintiff’s first amended complaint in January 17, 2019, in response to which  
12 Defendant filed an answer on February 22, 2019.

13          6.       We propounded significant, time-consuming written discovery in this matter on February  
14 17, 2019. Following the filing of its answer, Defendant arranged a phone call with Mr. Short and  
15 myself to discuss our interest in engaging in mediation.

16          7.       Once the mediation was set up, we agreed to stay the discovery which was pending and  
17 due in short order. Instead, Defendant agreed that it would provide documents that were relevant to our  
18 claims prior to our mediation brief deadline. I spent quite a lot of time reviewing and analyzing these  
19 documents, including analyzing the class member wages, hours, and expense reimbursements.

20          8.       Ultimately, the mediation took place on August 13, 2019. Dorota James, Brian Short, Lila  
21 Burns, and I attended on behalf of Plaintiff. Through the assistance of Steve Rottman, our highly  
22 experienced neutral, Plaintiff was able to reach an agreeable solution on that day and work out the  
23 details in a memorandum of understanding.

24          9.       Since the date of the mediation, the parties have been working diligently to finalize the  
25 settlement agreement.

26          10.       I am the owner of my firm, the Law Office of Kira M. Rubel, PLLC and am a member in  
27 good standing of the California state bar. I am also admitted to the Washington State Bar (Bar number  
28 51691).

1 11. I have been admitted to practice before the following Courts:

- 2 a. Federal District Court for the Middle District of Florida – Orlando and Jacksonville,  
3 Florida (Pro Hac Vice 2011, 2014, 2018)
- 4 b. Federal District Court for the Southern District of Florida (Pro Hac Vice, 2018)
- 5 c. Federal District Court of Massachusetts - (Pro Hac Vice 2011)
- 6 d. Federal District Court for the Southern District of California – Admitted 2007
- 7 e. Federal District Court for the Northern District of California – Admitted 2010
- 8 f. Federal District Court for the Central District of California – Admitted 2015
- 9 g. Federal District Court for the Eastern District of California – Admitted 2015
- 10 h. Supreme Court of California – Admitted 2007
- 11 i. Washington State Bar – Admitted January 2017
- 12 j. Federal District Court for the Western District of Washington – Admitted July 2019

13 12. I have approximately 12 years of class action experience. From 2007 to 2009, I worked  
14 for Bernstein, Litowitz, Berger, & Grossmann, a firm which specializes in securities fraud and derivative  
15 class actions. During my time there, I worked on both securities and employment class actions,  
16 including a wage and hour case against Bank of America, *Turnley, et al. v. Bank of America, et al.*, case  
17 no. 07-cv-10949.

18 13. Since starting my own firm in 2010, I have continued to litigate class action lawsuits, the  
19 substance and details of which will be more fully described in my declaration in support of fees and final  
20 approval. However, in sum, I have been filing and prosecuting plaintiff’s consumer and employment  
21 matters since the inception of my firm.

22 14. Mr. Short and I have put in significant time and effort into this case, and we filed this  
23 case only after putting serious thought and analysis into the complaint. Legally, I felt Plaintiff’s claims  
24 are very strong, but Defendant has many legal defenses based on the merits of the claims and could  
25 procedurally challenge Plaintiff’s ability to certify the class based on their perceived discrepancies to  
26 individual employees’ factual and legal claims. I believe that our preparation and diligence paid off in  
27 the form of this settlement, which provides real value to the Class Members. Although I cannot specify  
28

1 who will receive what at this time, based on simple calculations, I believe most Class Members will  
2 receive \$547.33 or more.

3 15. We intend to have our class administrator provide a declaration of diligence and results in  
4 connection with our motion for final approval which will be filed in anticipation of the final fairness  
5 hearing.

6 16. I believe that this settlement amount is fair and reasonable given the number of class  
7 members, the risks facing our claims at a trial on the merits, and the financial position of the Defendant.  
8 Specifically, we were very concerned that even if we did win full-value for our clients' claims at trial,  
9 that the paper judgment would be worth nothing given Defendant's precarious financial position as  
10 compared to a judgment of the magnitude we were seeking.

11 17. Mr. Short and I gave a lot of thought as to how the class distribution should take place.  
12 Ultimately, we decided it was most fair to provide compensation based upon the wages paid during the  
13 class period as a percentage of the total number of wages paid, as that seemed to be the best way to  
14 provide more value to those individuals that worked more hours. Each Class Member will receive his or  
15 her pro rata share based upon this percentage.

16 18. Mr. Short, Ms. James, and I have expended a significant amount of time and money in  
17 the prosecution of this matter. Our requested reimbursement is appropriate when compared with our  
18 lodestar. I intend to provide a detailed overview of the hours and costs incurred with our motion for fees,  
19 which will be filed in anticipation of the Final Fairness Hearing, so that the Court can review our time in  
20 detail. Notably, if we chose to continue litigating this case, it would require much more time and money  
21 and would increase the risks that the outcome would not exceed the exceptional result achieved in this  
22 settlement, particularly given the precarious financial condition of the Defendant.

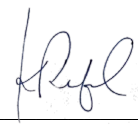
23 19. Our named Plaintiff, Lila Burns, has truly been pivotal in our litigation efforts and I  
24 believe her requested incentive payment is reasonable based on her efforts. She spent hours and hours  
25 pouring over old documents, emails, contracts, and researching the issues raised in this case. She made  
26 herself available any time we asked, day or night. She took time out of her schedule, and away from  
27 work, in order to attend the mediation. Truly, her efforts and bravery were what enabled us to craft such  
28 a unique case against Defendant, without which I don't believe we would have been as successful. I

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declare that the foregoing statements are true and correct under penalty of perjury and the laws of the State of California.

Dated: September 23, 2019



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By: Kira M. Rubel, Esq.

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