

1 **WAGNER, JONES, KOPFMAN,**  
2 **& ARTENIAN LLP**  
3 Nicholas J.P. Wagner #109455  
4 Andrew B. Jones #076915  
5 Daniel M. Kopfman #192191  
6 Lawrence M. Artenian #103367  
7 Angela E. Martinez #297169  
8 Laura E. Brown #306035  
9 1111 East Herndon Avenue, Ste. 317  
10 Fresno, California 93720  
11 Telephone: 559-449-1800  
12 Facsimile: 559-449-0749

13 Attorneys for Plaintiffs, DANIEL ACOSTA, GREG FRYE, JOSE HERNANDEZ, DENNIS  
14 EASLEY, ORLANDO CASTILLO

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 DANIEL ACOSTA, GREG FRYE, JOSE  
18 HERNANDEZ, DENNIS EASLEY, and  
19 ORLANDO CASTILLO,

20 Plaintiffs,

21 vs.

22 FRITO-LAY, INC.; FL  
23 TRANSPORTATION, INC.; PEPSICO, INC.;  
24 and DOES 1-100, inclusive,

25 Defendants.

Case No.: 15-CV-02128- JCS

CLASS ACTION

**DECLARATION OF ORLANDO  
CASTILLO IN SUPPORT OF  
ENHANCEMENT AWARDS**

Date: 5/3/18  
Time: 11 a.m.  
Place: F (15<sup>th</sup> Floor)

26 I, Orlando Castillo, declare:

27 1. I am an individual over the age of eighteen, and have resided in California at all  
28 times discussed below. I have personal knowledge of the matters stated herein and if called as a  
witness, could competently testify about the contents of this declaration.

2. I am one of the four named plaintiffs in this action, and prepare this declaration  
in support of Plaintiffs' Motion for Approval of Attorneys' Fees, Costs, and Enhancement

1 Awards.

2 3. I was hired by defendant as a driver on May 21, 2001, and have remained  
3 employed with the company since that time. As a named plaintiff in this case, I have spent a  
4 substantial amount of time and energy contributing to the investigation, prosecution, and  
5 settlement of this case over the three years that it has been active.

6  
7 4. I agreed to serve as a class representative out of a sense of duty and kinship to  
8 my fellow drivers. It is my belief that we all deserve to be compensated for all the time spent  
9 working for the defendant, and I chose to shoulder the considerable responsibilities associated  
10 with being a named plaintiff specifically because I wanted to make sure that the other drivers  
11 were not forgotten or left without just compensation.

12  
13 5. I considered filing an individual action that I could have potentially recovered an  
14 amount much greater than what has been negotiated through the proposed settlement in this  
15 class action. Ultimately, I decided to pursue class claims instead because of my firm conviction  
16 that the other drivers deserved to have someone advocate for their interests, and who would  
17 pursue compensation on their behalf and in their stead. In the course of this representation, I  
18 have considered the interests of the class to be as valuable as my own and indeed have placed  
19 their interests *above* my own by electing to proceed on a class wide basis.

20  
21 6. I understand that my attorneys are asking the court to authorize a monetary  
22 payment in the amount of \$20,000 as just compensation for my contributions to the success of  
23 this action. Given the time, effort, energy, and money that I have spent litigating this case, I  
24 believe the requested award is reasonable when compared with the average payment amount  
25 that absent class members can expect to receive. It is also reasonable when compared to the  
26 greatest award anticipated under the settlement, which is approximately \$33,300.  
27  
28

1           7.     I have also acted in the class's best interest by retaining experience counsel, and  
2 working closely with my attorneys to evaluate the impact that the proposed settlement will have  
3 on the class. I understand that the settlement in this case is subject to court approval to ensure it  
4 is in the best interests of the class as a whole, and believe that it will do so.

5           8.     My service as a class representative has brought with it the risk of serious  
6 repercussions to my professional and personal reputation:

7           a.     Throughout this case, I have remained employed by the defendants. In  
8 the course of my employment, I worked with one of the other class representatives, JOSE  
9 HERNANDEZ, and saw him subjected to baseless adverse employment actions that attacked  
10 his status as a United States Citizen and accused him of sexual assault and harassment.  
11

12           b.     Watching Mr. Hernandez be investigated in this matter by our employer  
13 was difficult, and put me in a tenuous position with my colleagues and superiors at work. I  
14 became afraid of being targeted for dismissal or retribution like Mr. Hernandez.  
15

16           c.     As a friend and colleague of Mr. Hernandez, I was afraid that our  
17 employer would subject me to similar treatment that could negatively affect the outcome of this  
18 case. I have had to remain vigilant and on guard at work to protect myself from retaliation as a  
19 consequence of my participation in this case.  
20

21           9.     Under the terms of the negotiated settlement, I have agreed to execute a general  
22 release of all claims against the defendant because I am a named plaintiff. I understand that this  
23 general release is more extensive than the one required to be signed by the absent class  
24 members, and will effectively waive any and all potential claims that I might have against my  
25 employer. Conversely, absent class members will only be required to release those claims that  
26 arise out of the facts specifically alleged in the operative complaint.  
27  
28

1 10. As described in ¶ 8, I believe have potentially viable, non-wage related claims  
2 against the defendant. I am willing and have agreed to execute the general release because I feel  
3 it is in the best interests of the class that I have chosen to represent.

4 11. I have spent a significant amount of time litigating this case by:

5 a. Retaining experienced counsel;

6  
7 b. Engaging in extensive in-person and over-the-phone meetings with  
8 counsel regarding my work history and performance, discussing the defendant's policies and  
9 practices, reviewing my employment and pay records, and responding to written discovery.

10 c. Performing extensive reviews of all documents in my possession related  
11 to my employment with the defendant, and providing those items to counsel and counsel's staff;

12  
13 d. Preparing for and traveling to attend two separate, full-day mediations  
14 from my home in Oakdale to San Francisco, all at my own expense;

15 e. Facilitating the settlement process by reviewing the proposed terms,  
16 discussing them with the other class representatives, and providing valuable feedback to counsel  
17 regarding revisions that were needed to ensure the proposed settlement served the best interests  
18 of the entire class; and

19  
20 f. Coordinating meetings and discussions between counsel and other  
21 members of the class, so that our attorneys would be able to engage in fact-finding to bolster the  
22 class's position in this action.

23  
24 12. Considering all of my efforts, I conservatively estimate the amount of time that I  
25 have spent representing every member of the settlement class at approximately 100 hours. Also,  
26 I estimate that I drove my own vehicle approximately 500 miles in order to be present at  
27 meetings with my attorneys, co-plaintiffs, and mediations.  
28

1  
2 I declare under penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct and that this declaration was executed on March 11, 2018, at  
4 Modesto, California.

5  
6 /s/ Orlando Castillo \_\_\_\_\_  
7 Orlando Castillo

8 In compliance with Local Rule 5-1(i)(3) and as the filer of this declaration and its attached  
9 exhibits, I have obtained the concurrence of each other signatory to file this document.

10 /s/ Daniel M. Kopfman  
11 Daniel M. Kopfman  
12 Attorneys for Plaintiffs  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28