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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
 21 Plaintiffs,
 22 vs.
 23 FRITO-LAY, INC.; FL
 24 TRANSPORTATION, INC.; PEPSICO, INC.;
 25 and DOES 1-100, inclusive,
 26 Defendants.

Case No.: 15-CV-02128- JCS

CLASS ACTION

**DECLARATION OF JOSE HERNANDEZ
 IN SUPPORT OF ENHANCEMENT
 AWARDS**

Date: 5/3/2018
 Time: 11 a.m.
 Place: F (15th Floor)

27 I, Jose Hernandez, declare:

28 1. I am an individual over the age of eighteen, and have resided in California at all
 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 an over-the-road driver on April 13, 2011, and
3 remain employed with the company to date. As a named plaintiff, I have spent a substantial
4 amount of time and energy contributing to the investigation, prosecution, and settlement of this
5 case over the three years that it has been active.

6
7 4. In agreeing to serve as a class representative, I took upon myself certain duties
8 and responsibilities to the class. I agreed to shoulder these responsibilities because I felt, and
9 continue to feel, very strongly about protecting the rights of absent class members. We are all
10 employees of the same company, and we all suffered similarly together because of that
11 employment.

12
13 5. I chose not to pursue my own individual action because of the fellowship
14 between myself and the other drivers, and despite the fact that I stood to receive a potentially
15 greater award than I otherwise might receive in this class action. In sum, throughout this case I
16 have considered the interests of the class to be as valuable as my own, and have put their
17 interests above my own by choosing to litigate this case on a class wide basis.

18
19 6. I understand that my attorneys are asking the court to authorize a monetary
20 payment in the amount of \$20,000 as just compensation for my contributions to the success of
21 this action. Given the time, effort, energy, and money that I have spent litigating this case, I
22 believe the requested award is reasonable when compared with the average payment amount
23 that absent class members can expect to receive. It is also reasonable when compared with the
24 greatest award amounts anticipated under the settlement, which are approximately \$33,300.

25
26 7. I have also acted in the best interest of the class by retaining experience counsel,
27 and working closely with my attorneys to evaluate the impact that the proposed settlement will
28

1 have on the class. I understand that the settlement in this case is subject to court approval to
2 ensure it is in the best interests of the class as a whole.

3 8. My service as a class representative has brought with it serious repercussions to
4 my professional and personal reputation:

5 a. After filing this lawsuit, my manager called me into his office specifically
6 to investigate whether I was in the country legally and had a legal right to work in the State of
7 California. In fact, I was asked whether I had a “valid green card.”

8 b. As a person of Hispanic heritage and as someone who has worked with
9 many Hispanic individuals over the years who are both documented and undocumented, my
10 perception has been that individuals without legal status are less likely to complain about illegal
11 workplace practices because they fear the employer might report them to federal immigration
12 authorities.
13

14 c. Given that I am a United States Citizen—and because the conversation
15 took place soon after this action was filed—my impression was that the defendant was looking
16 for evidence that might reflect poorly on my character and credibility, or that could be used as
17 leverage against me, and that this was done in response to my participation in this class action
18 lawsuit.
19

20 d. In the same vein, again after this matter was filed, I was accused by my
21 employer of sexual assault and harassment in the workplace. I was also asked to admit I
22 committed a sexual assault but my employer refused to tell me who I allegedly assaulted or any
23 other details.
24

25 e. The accusation of sexual assault and harassment was unfounded and
26 eventually was completely discredited, but the fact that it was made at all has blemished my
27
28

1 professional and personal reputation. The investigation into the harassment complaint was
2 extremely embarrassing, as my morals were called into question and I became the subject of
3 workplace gossip.

4 f. In addition, I am currently out on leave due to an injury. My surgery has
5 been delayed because my doctor was recently dropped from my employer's approved network. I
6 had been treating with that doctor for some time, and knew that he was within the health
7 insurance network because other drivers were also his patients. The delay in my surgery puts me
8 at risk for an involuntary termination from my employment with Frito-Lay.

9 g. My impression was that I was being subjected to these adverse
10 employment actions because of my participation in this case.

11
12
13 9. I understand that, as a named plaintiff and signatory to the settlement agreement,
14 that I have agreed to execute a general release of claims consistent with California law. I also
15 understand that the general release is more extensive than the one required to be signed by the
16 absent class members, who are only be required to release those wage and hour claims asserted
17 in the action.

18
19 10. As described in ¶ 7, I believe have potentially viable, non-wage related claims
20 against the defendant. I am willing and have agreed to execute the general release because I feel
21 it is in the best interests of the class that I have chosen to represent.

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

- 23 a. Retaining experienced counsel;
- 24 b. Engaged in extensive in-person and over-the-phone meetings with
25 counsel regarding my work history and performance, discussing the defendant's policies and
26 practices, reviewing my employment and pay records, and responding to written discovery.
27
28

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

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

5 e. Facilitating the settlement process by reviewing the proposed terms,
6 discussing them with the other class representatives, and providing valuable feedback to counsel
7 regarding revisions that were needed to ensure the proposed settlement served the best interests
8 of the entire class; and
9

10 f. Coordinating meetings and discussions between counsel and other
11 members of the class, so that our attorneys would be able to engage in fact-finding to bolster the
12 class's position in this action.
13

14 12. Considering all of my efforts, I conservatively estimate the amount of time that I
15 have spent representing every member of the settlement class at approximately 121 hours. Also,
16 I estimate that I drove my own vehicle approximately 1270 miles in order to be present at
17 meetings with my attorneys, co-plaintiffs, and mediations.
18

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct and that this declaration was executed on March 11, 2018 at
21 Modesto, California.
22

23 /s/ Jose Hernandez
24 Jose Hernandez

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

27 /s/ Daniel M. Kopfman
28 Daniel M. Kopfman
Attorneys for Plaintiffs