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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER JAMES, et al., individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

UBER TECHNOLOGIES, INC.,
Defendant.

CASE NO. 19-cv-06462-EMC

**DECLARATION OF SHANNON
LISS-RIORDAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS,
EXPENSES, AND SERVICE AWARDS**

Hon. Edward M. Chen

Hearing: July 14, 2022
Time: 2:30 p.m.
Courtroom: 5

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DECLARATION OF SHANNON LISS-RIORDAN

I, Shannon Liss-Riordan, declare as follows:

1. I am a partner at the law firm of Lichten & Liss-Riordan, P.C., and am lead attorney and class counsel for the settlement class in the above-captioned matter as well as lead counsel in the separate class action case on behalf of Uber Eats drivers, Hassell v. Uber Technologies Inc., Case No. 4:20-cv-04062-PJH (N.D. Cal.). I submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Costs and Service Awards. I have personal knowledge of the information set forth herein.

2. As set forth at greater length herein, I believe this settlement has produced an excellent result for the class, providing substantial monetary relief of over \$8.3 million to cover misclassification claims of just 1,329 California Uber drivers over a 22-month period between February 28, 2019 and December 16, 2020.¹

PROFESSIONAL BACKGROUND

3. I am a member of the bar in California, Massachusetts, and New York. I am a partner in the law firm of Lichten & Liss-Riordan, P.C. I have practiced exclusively in the field of employment law on the side of employees for my entire two decade legal career. My specialty for most of my legal career has been wage and hour class actions, with a particular focus on class actions regarding independent contractor misclassification.

4. I am an honors graduate of Harvard College (A.B., 1990) and Harvard Law School (J.D., 1996). Following law school and prior to practicing at Pyle Rome, I served as a law clerk for two years for U.S. District Court Judge Nancy F. Atlas in the Southern District of Texas.

¹ The release period for 97 of the 1,329 class members who drove exclusively for Uber Eats is longer: between March 18, 2016 and October 7, 2021.

1 5. I am a frequent invited speaker at seminars sponsored by such organizations as
 2 the National Employment Lawyers Association, the American Bar Association, Massachusetts
 3 Continuing Legal Education, the Massachusetts Bar Association, and other organizations on
 4 various topics regarding employment law, class actions, and wage and hour litigation. A
 5 particular focus that I have frequently been invited to speak on over the last fifteen years has
 6 been issues concerning arbitration and class actions.

7
 8 6. I have been featured by many major publications for my accomplishments
 9 representing low wage workers in a variety of industries. These publications include San
 10 Francisco Magazine (Exhibit A), the Los Angeles Times (Exhibit B), the Wall Street Journal
 11 (Exhibit C), the ABA Journal (Exhibit D), the Recorder (Exhibit E), Mother Jones (Exhibit
 12 F), Politico (Exhibit G), the Boston Globe (Exhibits H and I), and Law360 (Exhibit J).
 13 Politico included me on its list of the *“Top 50 thinkers, doers and visionaries transforming*
 14 *American politics”* in 2016. Exhibit G. San Francisco Magazine stated in its profile of me that
 15 “Liss-Riordan has achieved a kind of celebrity unseen in the legal world since Ralph Nader
 16 sued General Motors.” Exhibit A.

17 7. Last year, I recognized by Benchmark Litigation as the national Labor &
 18 Employment Employee-Side Attorney of the Year. Each year since 2008, I have been selected
 19 for inclusion in Best Lawyers in America (Chambers). Our firm, and my law partner and I have
 20 consistently been ranked in recent years in the top tier for our practice area. The 2013 edition
 21 referred to me as *“the reigning plaintiffs’ champion”*, and the 2015 edition said I am *“probably*
 22 *the best known wage class action lawyer on the plaintiff side in this area, if not the entire*
 23 *country”*.

24 8. I have gained a reputation as the preeminent lawyer across the country
 25 challenging the use of independent contractors in the so-called gig economy. I brought the
 26 first lawsuit nationally challenging misclassification in the gig economy industry in the
 27 landmark case, O’Connor v. Uber Technologies, Inc., Civ. A. No. 13-3826 (N.D. Cal.), before
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1 this very court. Since filing that case in 2013, I have litigated against every major gig economy
 2 company (Uber, Lyft, GrubHub, DoorDash, Postmates, Instacart, Handy, and others) in states
 3 around the country (including California, Massachusetts, New York, Illinois, and
 4 Pennsylvania). I have pursued these cases vigorously, through frequent appeals and using
 5 creative tactics, and have obtained landmark rulings that have developed the law in this area.

6
 7 9. My firm was the first to obtain class certification in these cases, in our litigation
 8 against Uber, both in O'Connor v. Uber Technologies, Inc., No. C-13-3826 EMC, 2015 WL
 9 5138097, at *1 (N.D. Cal., Sept. 1, 2015); O'Connor v. Uber Technologies, Inc. 311 F.R.D.
 10 547 (N.D. Cal. 2015), rev'd and remanded on other grounds, 904 F.3d 1087 (9th Cir. 2018),
 11 and in this case, see James v. Uber Technologies Inc. 338 F.R.D. 123, 129 (N.D. Cal. 2021).
 12 We were also the first firm (and only, to date) to take a gig economy misclassification case to
 13 trial. That case, Lawson v. Grubhub, Inc., 302 F.Supp.3d 1071 (N.D. Cal. 2018), vacated and
 14 remanded, No. 18-15386, 2021 WL 4258826 (9th Cir., Sept. 20, 2021), was filed in 2015, tried
 15 in 2017, appealed in 2018, and just recently we prevailed on appeal at the Ninth Circuit, which
 16 remanded with an order for the district court to apply the ABC test to the plaintiff's claims. *See*
 17 Lawson v. Grubhub, Inc., No. 18-15386, 2021 WL 4258826 (9th Cir., Sept. 20, 2021).

18 10. I obtained the ruling from the California Supreme Court declaring the Dynamex
 19 decision retroactive in Vazquez v. Jan-Pro Franchising International, Inc. 10 Cal.5th 944, 273
 20 Cal.Rptr.3d 741, 478 P.3d 1207 (2021). There, the Ninth Circuit held that the ABC test would
 21 apply to an alleged franchisor and emphasized the strength of the ABC test, and it cited to
 22 many of the authorities that I brought to the Court's attention from my extensive work in
 23 Massachusetts under the Commonwealth's ABC test. *See Vazquez v. Jan-Pro Franchising*
 24 International, Inc., 986 F.3d 1106 (9th Cir. 2021).

25 11. I have also obtained a number of other significant appellate rulings in California
 26 in this area of law. For example, I recently prevailed in Medina v. Equilon Enterprises, LLC,
 27 2021 WL 4128882 (Cal. Ct. App., Sept. 10, 2021), reversing the trial court's grant of summary
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1 judgment to the defendant and recognizing Shell to be a joint employer of employees working
 2 in service stations run by smaller intermediary franchise-like entities. In Maplebear dba
 3 Instacart v. Busick, 26 Cal.App.5th 394 (2018), I persuaded the Court of Appeal to reject an
 4 attempt by Instacart to avoid an arbitration ruling that had allowed a class arbitration to
 5 proceed. I also obtained the first ruling on summary judgment in favor of plaintiffs under the
 6 Dynamex ABC test in Johnson v. VGC-IS, LLC, Case No. 30-2015-00802813 (Cal. Sup., July
 7 18, 2018), which held that a strip club misclassified dancers under this test and applied the
 8 ABC test to a variety of claims, including claims for expense reimbursement (a hotly disputed
 9 issue in this area of law).

10
 11 12. The following is a summary of just some of our firm's litigation against gig
 12 economy companies. In our initial litigation against Uber before this Court, we defeated two
 13 separate summary judgment motions filed by Uber, under the more difficult Borello standard
 14 for misclassification. See O'Connor v. Uber Techs., Inc., 82 F. Supp. 3d 1133 (N.D. Cal. 2015)
 15 (denying summary judgment to Uber on misclassification issue); O'Connor v. Uber Techs., Inc.,
 16 Civ. A. No. 13-3826, Dkt. 499 (N.D. Cal. 2015) (denying partial summary judgment on
 17 Plaintiffs' claim under Cal. Lab. Code § 351). We won a significant victory holding Uber's
 18 arbitration clause not to be enforceable, see O'Connor v. Uber Technologies, Inc., 150
 19 F.Supp.3d 1095 (N.D. Cal. 2015), which was eventually overturned on appeal, see O'Connor v.
 20 Uber Technologies, Inc., 904 F.3d 1087 (9th Cir. 2018). In our current case against Uber, the
 21 court has certified a class of Uber drivers who opted out of arbitration under the newer ABC
 22 test, and the Ninth Circuit denied review of that decision despite Uber's efforts. See James v.
 23 Uber Technologies Inc., 338 F.R.D. 123, 129 (N.D. Cal. 2021); James v. Uber Technologies,
 24 Inc., Ninth Cir. No. 21-80006, Dkt. No. 4 (9th Cir. April 13, 2021).

25 13. At the outset of the pandemic, my firm also brought a series of cases against
 26 Uber and Lyft in California and Massachusetts, challenging the companies' failure to provide
 27 paid sick leave to drivers to the detriment of the drivers and the public. I settled some of the
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claims at issue in the Verhines case, which is part of this consolidated action, which led to the establishment of a program providing financial assistance to thousands of drivers during the pandemic (for which my firm received no fees). See Verhines v. Uber Techs. Inc., Civ. A No. 20-01886-EMC (N. D. Cal.).

14. Similarly, I have aggressively litigated in numerous other misclassification cases against gig economy companies, including Lyft, GrubHub, Postmates, Caviar, and Instacart. See, e.g., Cotter v. Lyft, Inc., 60 F. Supp. 3d 1067 (N.D. Cal. 2015) (denying summary judgment for Lyft); Lawson v. Grubhub, Inc., 2017 WL 2951608, at *1 (N.D. Cal. July 10, 2017) (denying summary judgment for GrubHub); Busick v. Maplebear Inc. dba Instacart, JAMS Ref. No. 1100081511 (successfully defended clause construction in a class arbitration); Groves v. Maplebear dba Instacart, BC695401 (Sept. 2, 2020, L.A. Sup. Ct.) (approving class settlement for California drivers); Cole v. Square Inc. dba Caviar (L.A. Sup. Ct. Nov. 4, 2020) BC719079 (approving class settlement for California drivers); Seifu v. Lyft, Appeal No. B301774 (June 1, 2021) (affirming denial of motion to compel arbitration of PAGA claims); Talbot v. Lyft Inc., CGC-18-566392 (S.F. Sup. Ct. Oct. 19, 2018) (court denied motion to compel arbitration for a subset of Lyft drivers); Singer v. Postmates (N.D. Cal.) 4:15-cv-01284-JSW (approving national class settlement); Rimler v. Postmates, Inc. (S.F. Superior Court CGC-18-567868); Albert v. Postmates, Inc., Case No. 18-cv-7592 (N.D. Cal.); Lee v. Postmates, Inc., Case No. 18-cv-3421 (N.D. Cal.), appeal pending Ninth Cir. No. 19-15024; Emmanuel v. Handy Technologies, Inc., 992 F.3d 1 (1st Cir. 2021) (litigated a bench trial regarding the enforceability of app-based cleaning company's arbitration clause).

15. Other gig companies my firm has sued include: Rev (a remote transcription service), VIPKid (a remote ESL tutoring service), Zum (a rideshare service geared towards transporting children), Deliv (a same-day delivery service), Saucey (a remote alcohol delivery company), and Shipt (delivery service). In our case against Zum, we filed a writ petition for review of an important issue regarding arbitration of PAGA claims and prevailed on appeal.

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1 See Contreras v. Superior Court of Los Angeles County 61 Cal.App.5th 461, 275 Cal.Rptr.3d
2 741, 61 Cal.App.5th 461 (2021).

3
4 16. My firm has also secured groundbreaking victories in a pair of cases against
5 Amazon on behalf of Amazon Flex delivery drivers, refusing to enforce Amazon's arbitration
6 clause, holding the drivers are exempt from the Federal Arbitration Act ("FAA"), 9 U.S.C. § 1,
7 et seq. under the transportation worker exemption. See Waithaka v. Amazon.com, Inc., 966
8 F.3d 10 (1st Cir. 2020), cert. denied 2021 WL 2519107(U.S., June 21, 2021), reh'g denied
9 2021 WL 3275777 (U.S., Aug. 2, 2021); Rittmann v. Amazon.com, Inc., 971 F.3d 904 (9th
10 Cir. 2020), cert. denied, 141 S.Ct. 1374, 209 L.Ed.2d 121 (2021).

11 17. Other significant appeals I have won include: Roes, 1-2 v. SFBSC Management,
12 LLC, 2019 WL 6721190 (9th Cir., Dec. 11, 2019) (agreeing with our objection to a class
13 settlement, reversing approval where the settlement included a reversion, an inadequate notice
14 process, and provided less than 4% recovery of potential classwide damages on primary
15 claims); Vazquez v. Jan-Pro Franchising International, Inc., 986 F.3d 1106 (9th Cir. 2021)
16 (holding that landmark Dynamex decision applies to misclassification claims against "cleaning
17 franchisor", and applies to top-tier company in multi-tier "fissured employment" scheme;
18 providing guidance on strength of ABC test for employment misclassification; and reinstating
19 wage claims on behalf of janitors who challenged paying for their jobs and other wage
20 violations); Haitayan v. 7-Eleven, Inc. No. 18-55462 (9th Cir. 2019) (reinstating wage claims
21 against 7-Eleven and reversing district court's denial of injunction for plaintiffs and potential
22 class members facing choice of pursuing wage claims or keeping their jobs); Khanal v. San
23 Francisco Hilton, Inc., No. 15-15493(9th Cir. 2017) (reversing order holding wage claims
24 brought by union employees preempted by LMRA); Williams v. Jani-King of Philadelphia Inc.
25 837 F.3d 314 (3d Cir. 2016) (affirming class certification in case challenging cleaning workers'
26 classification as independent contractor "franchisees" under Pennsylvania law); Marzuq v.
27 Cadete Enterprises, Inc., 2015 U.S. App. LEXIS 21301 (1st Cir. 2015) (Dunkin Donuts general
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managers could be eligible for overtime pay by proving management was not their primary duty, distinguishing 1982 First Circuit Burger King precedent, which had held fast food managers to be overtime-exempt); Travers v. Flight Systems & Services 2015 U.S. App. LEXIS 21671 (1st Cir. 2015) (affirming jury verdict in favor of skycap who was terminated in retaliation for leading class action wage complaint challenging policy affecting skycaps' tips and reinstating claim for front pay); Villon v. Marriott, Hawaii Supreme Court No. 11-747 (July 15, 2013) (holding that wait staff employees could recover under Hawaii wage law for service charges not remitted to them); Depianti v. Jan-Pro Franchising International, Inc., 465 Mass. 607 (2013) (Massachusetts Supreme Judicial Court held that national company could not evade liability for independent contractor misclassification by virtue of it not having direct contracts with the workers); Taylor v. Eastern Connection Operating, Inc., 465 Mass. 191 (2013) (SJC held Massachusetts independent contractor law applicable to work performed in New York for Massachusetts company); Matamoros v. Starbucks Corp., 699 F.3d 129 (1st Cir. 2012) (holding that Starbucks violated Massachusetts Tips Law by allowing shift supervisors to share in tip pool); Awuah v. Coverall North America, Inc., 460 Mass. 484 (2011) (SJC established the damages awardable for independent contractor misclassification under Massachusetts law, finding it to violate Massachusetts wage law and public policy to charge employees for a job); DiFiore v. American Airlines, Inc., 454 Mass. 486 (2009) (SJC held airline liable for Tips Law violation despite fact that skycap employees were directly employed by an intermediary company), rev'd on federal preemption grounds, 646 F.3d 81 (1st Cir. 2011), cert. denied (2011) 132 S. Ct. 761; Skirchak v. Dynamics Research Corporation 508 F.3d 49 (1st Cir. 2007) (First Circuit struck down class arbitration waiver in employer's arbitration policy); Gasior v. Massachusetts General Hospital, 446 Mass. 645 (2006) (SJC determined that discrimination claims, including claims for punitive damages, survive the plaintiff's death); Smith v. Winter Place LLC d/b/a Locke-Ober Co., Inc., 447 Mass. 363 (2006) (SJC held employees engaged in protected activity by making internal complaints of

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wage violations); Dahill v. Boston Police Department, 434 Mass. 233 (2001) (SJC decided that Massachusetts law would diverge from federal law in prohibiting discrimination against individuals with correctable disabilities, resulting in hiring of hearing-impaired police officer candidate and jury verdict of \$850,000); Cooney v. Compass Group Foodservice, et al. 69 Mass. App. Ct. 632 (2007) (Appeals Court held that servers were entitled as a matter of law to receive proceeds of service charges added to function bills); King v. City of Boston 71 Mass. App. Ct. 460 (2008) (Appeals Court reversed grant of summary judgment in sex discrimination suit, finding that plaintiffs could show that Boston Police Department discriminated against female superior officers by not providing them with separate locker rooms).

18. Cases that I have won at trial include: Norrell v. Spring Valley Country Club (class action jury verdict for waitstaff) (Mass. Super. 2017); Travers v. Flight Services & Systems, C.A. No. 11-10175 (D. Mass. 2014) (skycap terminated in retaliation for leading class action); DiFiore et al. v. American Airlines, Inc., C.A. No. 07-10070 (D. Mass. 2008) (verdict for plaintiff skycaps challenging \$2 per bag charge for curbside check-in); Benoit, et al. v. The Federalist, Inc., C.A. No. 04-3516 (Mass. Super. 2007) (verdict for plaintiff class for violation of Massachusetts Tips Law); Calcagno, et al. v. High Country Investor, Inc., d/b/a Hilltop Steak House, C.A. No. 03-0707 (Mass. Super. 2006) (verdict for plaintiff class for violation of Massachusetts Tips Law); Bradley et al. v. City of Lynn et al., 443 F.Supp.2d 145 (D. Mass. 2006) (verdict for plaintiff class where federal court held following bench trial that Commonwealth's entry level firefighter hiring examination has disparate impact on minorities and violated Title VII); Collins v. Commonwealth (Mass. Super. Court 2007) (jury verdict in favor of state police trooper who had been disqualified from employment because of his kidney transplant); Bingham v. Lynn Sand & Stone, 93-BEM-1491 (MCAD 2003) (finding of discrimination by MCAD after public hearing that company failed to hire African American truck driver applicant because of his race); Sprague v. United Airlines, Inc., 2002 WL 1803733 (D. Mass 2002) (judgment of \$1.1 million in a discrimination case brought by deaf airline

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1 mechanic who had been denied employment based on disability); Dahill v. Boston Police
 2 Department, 434 Mass. 233 (2001) (Supreme Judicial Court decided that Massachusetts law
 3 would diverge from federal law in prohibiting discrimination against individuals with
 4 correctable disabilities, resulting in hiring of hearing-impaired police officer candidate and jury
 5 verdict of \$850,000).

6
 7 19. In addition to the cases described above, I have also participated in numerous
 8 arbitration hearings (and have filed many mass arbitrations). I have also litigated and obtained
 9 favorable court rulings in many dozens of cases on summary judgment, class certification, and
 10 numerous other issues related to wage and hour law, class actions, and arbitration clauses.
 11 Through many of these cases, my firm and I have pioneered groundbreaking precedents in a
 12 variety of industries, establishing that workers have been misclassified as independent
 13 contractors. These industries include the cleaning industry, adult entertainment industry,
 14 trucking industry, call center industry, and others. For more information about these cases and
 15 others I have litigated, see the profiles cited in paragraph 6 and our firm's website,
 16 www.llrlaw.com.

17 20. In addition to class action cases that I have won, or resolved successfully, I and
 18 my firm have also worked on many such cases for which we received no compensation at all
 19 because the cases were ultimately not successful. Examples of such cases include:

20
 21 ■ In my firm's previous Uber misclassification litigation referenced above, my
 22 firm invested thousands of hours and hundreds of thousands of dollars only to see many of our
 23 gains erased by the Ninth Circuit Court of Appeals with the stroke of a pen. In O'Connor v.
 24 Uber Techs. Inc., Civ. A. No. 13-3826-ECM (N.D. Cal.), we litigated a class action on behalf
 25 of hundreds of thousands of Uber drivers for misclassification and related Labor Code
 26 violations. On the eve of trial, I negotiated a \$100 million settlement. After a number of
 27 competing counsel filed objections to the settlement, the court did not approve it. Shortly
 28 thereafter, the Ninth Circuit decertified the class, leaving all but a small fraction of the
 proposed settlement class bound by individual arbitration agreements. I eventually settled on
 behalf of a much smaller class of drivers, but the firm's lodestar in that settlement exceeded the
 fee award (and hundreds of thousands of Uber drivers missed out on a chance at recovery)

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1 because of the Ninth Circuit's decision, underscoring the incredible risk under which our
2 contingency practice operates.

3 ■ In addition, our firm has litigated over the last several years many other cases
4 against "gig economy" companies for misclassifying workers as independent contractors for
5 which we have received, and are likely to receive, no or very little compensation. For example,
6 in two such cases we have litigated Taranto, et al. v. Washio, Inc., No. CGC-15-546584 (SF.
7 Sup.) and Iglesias v. Homejoy, Inc. No. 15-cv-01286-EMC (N.D. Cal.), the companies shut
8 down during the litigation, leaving the workers with no or little payment for their claims and
9 our firm with no or little reimbursement for our fees and expenses.

10 ■ I spent several years litigating on behalf of Boston and Chicago cab drivers,
11 alleging that they have been misclassified as independent contractors under state law. In the
12 litigation on behalf of the Boston cab drivers, the trial court ruled that the plaintiffs were likely
13 to succeed on the merits of their claims and entered an injunction against the transfer of assets
14 by the owner of Boston Cab Dispatch, an order that was worth more than \$200 million, and
15 which was affirmed on appeal. See Sebago v. Tutunjian (2014) 85 Mass. App. Ct. 1119. That
16 result was, however, unexpectedly reversed on appeal by the Supreme Judicial Court, Sebago v.
17 Boston Cab Dispatch, Inc. (2015) 471 Mass. 321, and that entire litigation, including many
18 hundreds of hours of attorney time, went uncompensated. Similarly, the litigation on behalf of
19 Chicago cab drivers was unsuccessful, and the firm was not compensated for that work either.
20 See Enger v. Chicago Carriage Cab Co. (N.D. Ill. 2014) 77 F. Supp. 3d 712, aff'd (7th Cir.
21 2016) 812 F.3d 565.

22 ■ Likewise, our firm has advanced many hundreds of thousands of dollars in
23 expert expenses and incurred thousands of hours of unpaid attorney time for cases challenging
24 discrimination in promotional exams for police officers in Massachusetts. Although we were
25 successful at trial in an earlier case challenging entry level exams for firefighters and police
26 officers, see Bradley v. City of Lynn (D. Mass. 2006) 443 F. Supp. 2d 145, we lost a follow-up
27 case after 9 years of litigation, Lopez v. City of Lawrence, Massachusetts (D. Mass. June 11,
28 2010) 2010 WL 2429708, *1, aff'd 2016 WL 2897639 (1st Cir. May 18, 2016).

21. In short, a plaintiffs-side contingency practice like ours, in which we are able to
steadfastly fight legal battles that extend for years, attempting to advance the rights of low
wage workers who could not afford to pay out-of-pocket for counsel -- and fighting until we
have achieved victory or what we believe to be a fair and adequate resolution -- is only made
possible by the nature of contingency fee work. These examples of cases cited above that we

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1 have litigated tenaciously, including those we have fought unsuccessfully, never would have
 2 been possible—nor would many other cases for which we have taken tremendous risks over
 3 the years, many of which we have succeeded in, and some of which we have disappointingly
 4 not—were it not for contingency fees we have been able to recover for our successful litigation.
 5 Indeed, in settling some of our claims in the Verhines case before Judge Spero over the course
 6 of *nine mediation sessions*, my firm dedicated considerable time and resources, but the result
 7 we reached, while extremely beneficial to drivers, did not include any compensation or fees for
 8 our firm. This is yet another example of a case where we have devoted significant resources to
 9 help low-wage workers but have not ultimately secured any compensation. Our firm charges a
 10 standard one-third contingency fee in the vast majority of our cases, but many plaintiffs’
 11 attorneys are charging even more than one-third in their fee agreements for wage and hour
 12 clients; a number have been charging 40% in recent years. Thus, in my experience, an
 13 attorneys fee award of 33% to 40% or even more reflects the fair market value of what is
 14 typically negotiated ex ante by workers in wage-and-hour cases like this one. Here, we are
 15 requesting well below that market rate -- only 25% of the common fund.
 16

17 DESCRIPTION OF MY TIME SPENT ON THIS LITIGATION

18
 19 22. Since Plaintiff Thomas Colopy filed the original class action complaint in this
 20 case, alleging that Uber drivers were misclassified as independent contractors under California
 21 law, I conservatively estimate that I have spent to date at least 400 hours working on this
 22 consolidated case as well as the Hassell action.² I have reviewed the time records of the other
 23

24 ² On January 3, 2020, Colopy filed an amended complaint that added two additional
 25 plaintiffs, Christopher James, and Spencer Verhines. See Dkt. 33. On March 12, 2020, I filed a
 26 separate complaint in California state court on behalf of Spencer Verhines, which was
 27 subsequently removed to this court and captioned Verhines v. Uber Techs. Inc., Civ. A. No.
 28 3:20-cv-01886 (N.D. Cal.). This complaint focused on Uber’s failure to provide paid sick
 leave during the pandemic. On April 16, 2020, I filed an amended consolidated complaint that
 combined both the original case, Civ. A. No. 19-cv-06462, and the Verhines sick leave case,

attorneys at my firm in order to estimate the hours I have worked on these cases. Having spent more hours than Attorney Pagano, who was on maternity leave for part of the period in question, and as her detailed records show more than 200 hours, I am conservatively estimating that I spent 400 hours. My time was primarily spent as follows:

- I spent a substantial amount of time reviewing and editing court filings. These included substantial briefing in the James case regarding our requests for preliminary injunction, opposing Uber's Motion to Dismiss, briefing our Motion for Class Certification, including supplemental briefing requested by the Court and opposing Uber's Rule 23(f) Petition at the Ninth Circuit Court of Appeals, and preparing our Summary Judgment Motion (in addition to various Case Management Statements). This also included reviewing and editing briefing in the Hassell case regarding Uber's repeated motions to dismiss the complaint. I have prepared for and argued all motions in this case and Hassell;³
- I have also spent time reviewing discovery requests and responses and preparing for the Rule 30(b)(6) deposition of the Defendant, which I took myself;
- I spent significant time attending nine separate mediation sessions with Judge Spero regarding the partial settlement of our claims in the Verhines case, including substantial

Civ. A. No. 3:20-cv-01886, with only Christopher James and Spencer Verhines serving as named plaintiffs. See Dkt. 47. This amended consolidated complaint contained new allegations regarding Uber's failure to provide paid sick leave during the pandemic

³ I have not kept contemporaneous records of my time in many years, but courts have consistently awarded fees based on my reasonable estimates of my time spent litigating cases; many courts have awarded fees based upon reasonable estimates of time spent, even without contemporaneous records. See Brinskele v. United States (N.D. Cal., May 22, 2014, No. C13MISC80094JSWDMR) 2014 WL 4832263, at *2 ("Based upon the court's familiarity with this litigation and counsel's work, the court is able to assess the reasonableness of the hours claimed by counsel without the need to inspect contemporaneous time records."); see also Kilopass Tech., Inc. v. Sidense Corp. (N.D. Cal. 2015) 82 F. Supp. 3d 1154, 1169; Rodgers v. Claim Jumper Rest., LLC (N.D. Cal. Apr. 24, 2015) 2015 WL 1886708, *10; In re Rossco Holdings, Inc. (C.D. Cal. May 30, 2014) 2014 WL 2611385, *8 ("In California, an attorney need not submit contemporaneous time records in order to recover attorney fees"); Cotton v. City of Eureka, Cal. (N.D. Cal. 2012) 889 F. Supp. 2d 1154, 1177; Ackerman v. W. Elec. Co. (9th Cir. 1988) 643 F. Supp. 836, 863-64 (N.D. Cal. 1986), aff'd, 860 F.2d 1514 (noting that "the Ninth Circuit requires only that the affidavits be sufficient to enable the court to consider all the factors necessary to determine a reasonable attorney's fee award ... California law is in accord with the Ninth Circuit view."); Slimfold Mfg. Co. v. Kinkead Indus., Inc. (Fed.Cir.1991) 932 F.2d 1453, 1459.

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1 time reviewing the terms of that settlement and overseeing its implementation (though our
2 firm received no fees in connection with this settlement);

- 3 • I have also spent extensive time throughout these cases communicating with the Plaintiffs,
4 communicating with defense counsel, and communication with the mediator, preparing for
5 mediation, attending the mediation, and engaging in further settlement negotiations over
6 the course of several months with defense counsel;
- 7 • Finally, I have spent time editing settlement approval briefing, including the Motion for
8 Preliminary Approval and Supplemental Brief as well as the instant Motion for Attorneys' Fees.

9 23. The 400 hours I estimate I have spent already on this litigation does not account
10 for future work that will be spent preparing the final approval motion and overseeing the
11 remainder of the settlement including the notice process, any challenges from settlement class
12 members, distribution of settlement funds, and communicating with class members about the
13 settlement. I conservatively estimate the remaining work will require at least an additional 25
14 hours of time from myself, reviewing and revising briefing, preparing for and attending the
15 final approval hearing, and dealing with logistics of the settlement. See Beckman v. KeyBank,
16 N.A. (S.D.N.Y. 2013) 293 F.R.D. 467, 481–82 (noting that “[i]n wage and hour cases, Class
17 Counsel is often called upon to perform work after the final approval hearing, including
18 answering class member questions, answering questions from the claims administrator, and
19 negotiating and sometimes litigating disagreements with defendants about administering the
20 settlement and distributing the fund...[b]ecause class counsel will be required to spend
21 significant additional time on this litigation in connection with implementing and monitoring
22 the settlement, the multiplier will actually be significantly lower because the award includes
23 not only time spent prior to the award, but after in enforcing the settlement.”) (internal citations
24 and quotations omitted).

25 MY HOURLY RATE

26 24. I believe an hourly rate of \$950 for my services rendered in class action
27 litigation in California is a reasonable rate. Most recently, I was awarded an hourly rate of
28

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\$950 by the Los Angeles Superior Court in two separate cases, Marko v. DoorDash Inc., BC659841 (Jan. 13, 2022) and Contreras v. Zūm Services, Inc., 19STCV43062 (L.A. Super. Ct. Mar. 25, 2022), for purposes of the Court's lodestar cross-check. I also recently was awarded an hourly rate of \$900/hour in a lodestar analysis for a fee petition for a New York arbitration case I took to hearing and won. Given that last year I was named the top employment lawyer in the country by Benchmark Litigation, I believe I merit the top rate that courts have recognized for top-tier litigators, which has exceeded \$1,000 per hour in recent years. See, e.g., MSC Mediterranean Shipping Co. Holding S.A. v. Forsyth Kownacki LLC, 2017 WL 1194372, at *3 (S.D.N.Y. Mar. 30, 2017) (finding reasonable the rate of \$1,048.47 charged by partners at Gibson Dunn, which represents Defendant DoorDash in this matter); S. Bank N.A. v. Dexia Real Estate Capital Mkts., 2016 WL 6996176, at *8 (S.D.N.Y. Nov. 30, 2016) (approving rates of up to \$1,055 per hour). I have been awarded similar rates in connection with other gig economy settlements approved by California courts in recent years, and this modest increase reflects rising rates with the passage of time. See O'Connor v. Uber Techs., Inc., 2019 WL 4394401, at *11 (N.D. Cal. Sept. 13, 2019) (approving settlement with my rate calculated at \$850/hour for lodestar cross-check); Groves v. Mapbear Inc. dba Instacart, (L.A. Sup. Ct.) BC695401 (same); Cole v. Square Inc. dba Caviar (L.A. Sup. Ct. Nov. 4, 2020) BC719079 (same); see also Cotter v. Lyft Inc., 2017 WL 1033527 (N.D. Cal. Mar. 16, 2017) (Dkt. No. 310) (\$800/hour); Singer v. Postmates (N.D. Cal. April 25, 2018) 4:15-cv-01284-JSW (same).

25. The requested rate is also reasonable based on my knowledge of fees awarded in other cases to top plaintiffs' attorneys in California. See, e.g., Independent Living Center of S. Cal. v. Kent, (C.D. Cal. 2020) 2020 U.S. Dist. LEXIS 13019 (approving rates for senior partners between \$965 and \$1,025); Dimry v. Bert Bell/Pete Rozelle NFL Player Ret. Plan (N.D. Cal. Dec. 22, 2018) 2018 WL 6726963, *1 (three years ago, approving the hourly rate of \$900 for partner in ERISA case); Civil Rights Educ. & Enft Ctr. v. Ashford Hosp. Tr., Inc. (N.D. Cal. Mar. 22, 2016) 2016 WL 1177950, *5 (five years ago, approving an hourly rate of

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\$900 for highly experienced partner); Nat'l Fed'n of the Blind of Cal. v. Uber Techs., Inc. (N.D. Cal. Dec. 6, 2016, No. 14-cv-4086-NC) Order Granting Final Approval and Attorneys' Fees (Dkt. No. 139) (five years ago, approving hourly rates of \$900 and \$895 for senior partners).

**HOURS AND RATES FOR OTHER ATTORNEYS AND STAFF
WHO HAVE WORKED ON THIS CASE**

26. Along with me, Adelaide Pagano, who became a partner at our firm in September 2019, has spent substantial time working on this case. Ms. Pagano is a summa cum laude graduate of Macalester College (B.A., 2009) and a cum laude graduate of Harvard Law School (J.D., 2014). Ms. Pagano has been named a Rising Star by SuperLawyers every year since 2018. I am familiar with Ms. Pagano's work on this case, as I have been responsible for assigning work tasks related to this case and have seen her work on such tasks.

27. Ms. Pagano has significant experience working on gig economy misclassification cases, as she was the primary attorney who assisted me in the O'Connor litigation as well as our firm's litigation against Instacart in Massachusetts and California and our firm's cases against DoorDash. Ms. Pagano was involved in the extensive discovery meet and confer process with opposing counsel and oversaw document review. She also contributed significant legal research and drafting to our Class Certification and Summary Judgment briefing in the case. She drafted our mediation statement and attended the full-day mediation alongside me that resulted in this settlement, and she has taken the lead in drafting the settlement documents and overseeing the settlement administration process.

28. I believe an hourly rate of \$600 for Ms. Pagano's services rendered in class action litigation is a reasonable rate. See, e.g., Marko v. DoorDash Inc., BC659841 (Jan. 13, 2022) (approving hourly rate of \$600 for Attorney Pagano); Contreras v. Zūm Services, Inc., 19STCV43062 (L.A. Super. Ct. Mar. 25, 2022) (same). This rate is based on my knowledge of

1 fees awarded in other cases to attorneys of approximately her experience and position within a
 2 law firm. See, e.g., Jean-Pierre v. J&L Cable TV Svcs. Inc., Civ. A. No. 1:18-cv-11499-MLW
 3 (D. Mass. Aug. 31, 2021), Dkt. No. 148 (approving hourly rate of \$600 for Lichten & Liss-
 4 Riordan partner Matthew Thomson with commensurate experience); AdTrader, Inc. v. Google
 5 LLC (N.D. Cal., Mar. 24, 2020) 2020 WL 1921774, at *8, appeal dismissed (9th Cir. 2021) 7
 6 F.4th 803 (approving “hourly rate of \$855 per hour for junior partners and of counsel
 7 attorneys” in class action for breach of contract); Superior Consulting Servs., Inc. v. Steeves-
 8 Kiss, (N.D. Cal. May 11, 2018) 2018 WL 2183295, at *5 (“[D]istrict courts in Northern
 9 California have found that rates of \$475 to \$975 per hour for partners... are reasonable.”);
 10 Perfect 10, Inc. v. Giganews, Inc., (C.D. Cal. Mar. 24, 2015) 2015 WL 1746484, at *15-*20
 11 (approving billing rates of \$610-\$750 for junior partner as reasonable), aff’d, (9th Cir. 2017)
 12 847 F.3d 657; Independent Living Center of S. Cal. v. Kent (C.D. Cal. 2020) 2020
 13 U.S. Dist. LEXIS 13019 (approving rates of \$640 per hour for 2015 graduate).

14
 15 29. Anne Kramer is a fifth-year associate at our firm who assisted with this case,
 16 including by performing legal research and drafting of various documents in this case and by
 17 attending every mediation session with Judge Spero in relation to the settlement of our sick
 18 leave claims, and overseeing the implementation of that settlement. Ms. Kramer was also the
 19 primary associate on the Hassell case and spent substantial time drafting pleadings and
 20 opposing Uber’s multiple motions to dismiss in that case and working with our client on
 21 gathering voluminous documents and performing calculations of his damages. Ms. Kramer is a
 22 graduate of University of Wisconsin - Madison (B.S., 2012) and a cum laude graduate of
 23 Boston College Law School (J.D., 2016). Attorney Kramer has substantial experience working
 24 on our firm’s other gig economy misclassification cases, including cases against Uber, Lyft,
 25 Caviar, Zum, VIPKid, and numerous other companies. She was named a Rising Star by Super
 26 Lawyers in 2020 and 2021. I am familiar with Ms. Kramer’s work on this case and the Hassell
 27
 28

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1 case, as I have been responsible for assigning work tasks related to this case to her, have
 2 supervised her on such tasks, and have seen her work on such tasks.

3 30. I believe an hourly rate of \$450 for Ms. Kramer's services rendered in class
 4 action litigation is a reasonable rate given her experience in the field of wage and hour law, and
 5 misclassification in the gig economy in particular. See, e.g., Contreras v. Zūm Services, Inc.,
 6 19STCV43062 (Mar. 25, 2022) (approving hourly rate of \$425 for Attorney Kramer). This
 7 rate is based on my knowledge of fees awarded in other cases to attorneys of approximately her
 8 experience and position within a law firm. See, e.g., Campbell v. Best Buy Stores, L.P., (C.D.
 9 Cal. June 23, 2015) 2015 U.S. Dist. LEXIS 186976, at *27 (assigning hourly rates from \$450-
 10 \$475 to attorneys with 5.5-6.5 years of experience in its lodestar analysis for a class action);
 11 Retta v. Millennium Products, Inc. (C.D. Cal., Aug. 22, 2017) 2017 WL 5479637, at *12
 12 (assigning hourly rates from \$400-\$425 to attorneys with 5-7 years of experience in its lodestar
 13 analysis for a class action); Kries v. City of San Diego, (S.D. Cal. Jan. 13, 2021) 2021 U.S.
 14 Dist. LEXIS 6826, at *27 (assigning a \$400 hourly rate to an attorney with 6 years of
 15 experience in its lodestar analysis for a Fair Labor Standard Act case).

17 31. Third-year associate Anastasia Doherty is a graduate of Georgetown University
 18 (B.A., 2011) and Northeastern University School of Law (J.D., 2019). Ms. Doherty was the
 19 primary associate on the James case and performed extensive legal research and drafting in this
 20 capacity. She assumed primary responsibility for drafting our preliminary injunction papers as
 21 well as Supplemental briefing regarding the effect of Proposition 22 on the claims in this case.
 22 She was also the primary point of contact for our clients and worked extensively on their
 23 discovery responses and preparing them for deposition. I believe the requested hourly rate of
 24 \$375 is eminently reasonable for her excellent work on this case. See, e.g., WB Music Corp. v.
 25 Royce Int'l Broad. Corp., (C.D. Cal. July 9, 2018) 2018 WL 6177237, at *5 (finding reasonable
 26 hourly rates of \$400-\$495 for an associate "right out of law school"); 700 Valencia St. LLC v.
 27 Farina Focaccia & Cucina Italiana, LLC, (N.D. Cal. Feb. 8, 2018) 2018 WL 783930, at *3
 28

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(finding reasonable a \$420 hourly rate for a first-year associate); Campbell v. Best Buy Stores, L.P., (C.D. Cal. June 23, 2015) 2015 U.S. Dist. LEXIS 186976, at *27 (assigning a \$375 hourly rate for an associate with 1.5 years of experience); Dixon v. City of Oakland, (N.D. Cal. Dec. 8, 2014) 2014 WL 6951260, *7 (approving hourly rate of \$325 for associate with two years' experience); Cuviello v. Feld Entm't, Inc., 2015 WL 154197, *2 (N.D. Cal. Jan. 12, 2015) (awarding fees of \$325 per hour to an associate with 2 years' experience).

32. Additionally, several law clerks have performed work on this case. I believe an appropriate rate for these individuals is \$275/hour. See, e.g., Contreras v. Zūm Services, Inc., 19STCV43062 (Mar. 25, 2022) (approving hourly rate of \$275 for student law clerks and \$225 for paralegal staff); McKibben, 2019 WL 1109683, at *14 (approving rate of \$225/hour for law clerks in 2019).

33. A number of paralegals at our firm worked extensively on this litigation, including Maria Cedeno, Emily Verrill, Tristan Davis, and Alexandria Andrade.

34. Attorneys Pagano, Kramer, Doherty and I all assigned work related to this case to each of these individuals. Ms. Cedeno was the primary legal assistant on this case, proofreading and preparing documents for filing and taking care of courtesy copies and other administrative tasks as well as assisting the attorneys in gathering and preparing documents as part of the discovery process. Ms. Andrade has worked primarily on communicating with class members and the named plaintiffs over email and/or telephone regarding the progress of litigation and answering questions about the class notice and settlement process. She also worked many hours to contact drivers who had potential claims for unpaid sick leave. Mr. Davis likewise spent considerable time communicating with class members and drivers who had potential claims for unpaid sick leave, as well as many hours assisting with document review. Finally, Ms. Verill spent more than 100 hours painstakingly analyzing data regarding drivers' opt outs and their dates of acceptance of Uber's many contracts and performed careful analysis of said materials to verify that individuals were properly included or excluded from

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1 the certified class. Ms. Verrill worked closely with Attorney Pagano throughout the meet and
 2 confer process regarding the composition of the certified class to verify that the parties were in
 3 agreement about who was included and making sure no driver was erroneously omitted from
 4 the class list.

5
 6 35. I believe an hourly rate of \$225 for these paralegals' services rendered in class
 7 action litigation is a reasonable rate. These rates are based on my knowledge of fees awarded
 8 in other cases to paralegals of approximately their experience and position within a law firm.
 9 See McKibben v. McMahon (C.D. Cal., Feb. 28, 2019) 2019 WL 1109683, at *14 (approving
 10 rates ranging from \$335 for senior paralegals to \$175 for junior paralegals); Broomfield v.
 11 Craft Brew All., Inc., (N.D. Cal. Feb. 5, 2020) 2020 WL 1972505, at *12 (assigning a \$250
 12 hourly rate to paralegals in its lodestar analysis for a class action); Hefler v. Wells Fargo & Co.,
 13 (N.D. Cal. Dec. 17, 2018) 2018 WL 6619983, at *14 (finding reasonable \$245-\$350 hourly
 14 rates for paralegals in its lodestar analysis for a class action); WB Music Corp. v. Royce Int'l
 15 Broad. Corp., (C.D. Cal. July 9, 2018) 2018 WL 6177237, at *5 (assigning a \$250 hourly rate
 16 to paralegals in its lodestar analysis for a copyright infringement case); 700 Valencia St. LLC v.
 17 Farina Focaccia & Cucina Italiana, LLC, (N.D. Cal. Feb. 8, 2018) 2018 WL 783930, at *4
 18 (finding reasonable \$335-\$355 hourly rates for paralegals in its lodestar analysis for an
 19 unlawful detainer case); Nitsch v. DreamWorks Animation SKG Inc., (N.D. Cal. June 5, 2017)
 20 2017 WL 2423161, at *9 (finding reasonable hourly rates up to \$290 for paralegals in its
 21 lodestar analysis for a class action).

22 36. My firm's costs in our litigation against Uber in these matters is \$24,152.19. An
 23 itemized list of our costs is attached as **Exhibit K**. These costs include filing fees, charges
 24 associated with providing courtesy copies and mailings to the court, costs associated with
 25 obtaining filings from related cases and performing legal research, IT services related to the
 26 litigation, ordering hearing and deposition transcripts, mediation fees, and costs associated with
 27 travel.
 28

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37. Based on the above figures, I calculate our firm's total lodestar in this litigation to be approximately \$803,477 including expenses of litigation and estimated additional hours to be spent on the case, preparing for and attending the final approval hearing, and working with the Settlement Administrator to effectuate the terms of the settlement. A chart itemizing time entries for the firm's staff who worked on these cases is attached here as **Exhibit L**. The chart below summarizes their fees:

Attorney	Hours	Rate	Fees
Shannon Liss-Riordan	400	\$950	\$380,000
Adelaide Pagano	206.5	\$600	\$123,900
Anne Kramer	152.5	\$425	\$64,812
Anastasia Doherty	223.5	\$375	\$83,813
Law Clerks	52	\$275	\$14,300
Paralegal Staff	500	\$225	\$112,500
Costs			\$24,152.19
TOTAL:			\$803,477

38. Based on this this total lodestar, Plaintiffs' fee request of \$2,108,950 million thus results in an overall multiplier of 2.65. I believe this multiplier is warranted, based on the excellent results obtained for the class and the efforts of Plaintiffs' counsel in this case, which were instrumental in bringing Uber to the table and extracting this historic result for the settlement class. Courts in the Ninth Circuit have "routinely awarded" multipliers in "the 1x to 4x range", Perks v. Activehours, Inc., 2021 WL 1146038, at *8 (N.D. Cal., Mar. 25, 2021), and courts will often award higher multipliers where the circumstances warrant it because of the excellent results obtained, complexity of the case, and risks involved. See, e.g., Craft v. County of San Bernardino, 624 F.Supp.2d 1113, 1123 (C.D. Cal. 2008) (awarding 25% of common fund, equivalent to a 5.2 multiplier) (collecting cases).

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39. Here, I believe this more modest multiplier is warranted because of the excellent results obtained for the class, which provide a higher recovery on a per driver basis than in any previous settlement. Here, the gross settlement amount covers the full IRS reimbursement rate for miles driven with passengers in the car *and* to pick up passengers in addition to phone expenses. Plaintiffs calculated the maximum verdict value of the vehicle-related expense reimbursement at \$7.95 million plus \$475,740 for telephone reimbursement. The improper wage statement claim was calculated at \$3.75 million. Thus, the settlement represents 69% of the estimated maximum verdict value of the expense reimbursement and the pay statement claim, the two claims that were certified in this case, and 100% of the more certain expense reimbursement claim. To my knowledge, this is the best recovery in a “gig economy” settlement in terms of the verdict value of the claims at issue. The average payment to class members, assuming a 100% claim rate, would be \$4,750, which is substantial. That the claim rate in the case already exceeds 60% is a reflection of the fact that drivers recognize this is an excellent result.

40. These excellent results were the result of the efforts of Plaintiffs’ counsel in this case. Our hard work resulted in a certified class, and Uber was facing the prospect of responding to our summary judgment motion, such that it was clear we had a strong chance of prevailing on the misclassification question. This hard work was instrumental in extracting such an excellent result for the settlement class and should be rewarded with a substantial multiplier (should the Court elect to use the lodestar method rather than the percentage of the fund).

CLASS REPRESENTATIVES SERVICE AWARDS

41. Under the terms of the settlement, Plaintiffs are also requesting service awards of \$10,000 each for the three named plaintiffs involved in the consolidated cases in this settlement. I have personal knowledge of the contributions of Christopher James, Spencer Verhines, and Kent Hassell, each of whom have worked with our firm as a class representative,

1 seeking to bring claims on behalf of similarly situated Uber drivers. Each of these drivers have
2 sent us voluminous documents and have reviewed filings in these cases and answered our
3 questions about Uber's practices.

4 42. I have reviewed the Declarations submitted by Named Plaintiffs Christopher
5 James, Spencer Verhines, and Kent Hassell, and I agree with the substance of their declarations.
6 Their involvement in the case was instrumental in obtaining the settlement. In addition, Mr.
7 Verhines and Mr. James contributed to the litigation by participating extensively in discovery.
8 All three drivers assisted by spreading word of the case (and the ability to opt out of Uber's
9 arbitration clause) to other drivers and encouraging them to support the case and to claim in the
10 settlement. In my practice, I am well aware of the risks that workers face in putting their
11 names on high profile cases, which can impact future job opportunities. It is only because some
12 workers are willing to step forward on behalf of others, in the face of these risks, that this type
13 of litigation can be pursued at all. Here, this litigation has gone on for several years, and these
14 named plaintiffs have remained committed and steadfast in fulfilling their roles as
15 representatives of the class.
16

17
18 I declare under penalty of perjury under the laws of the United States of America that
19 the foregoing is true and correct.

20 Executed on May 23, 2022, in Boston, Massachusetts.

21
22 By: /s/ Shannon Liss-Riordan
23 Shannon Liss-Riordan
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