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SUPERIOR COURT STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

JUAN CARLOS RODRIGUEZ, an individual, Plaintiff(s), v. PER DIEM, LLC, a California LLC, PD TRANSBAY, LLC, a California LLC, DARREN MATTE, an individual, NAOMI COMSTOCK, an individual, CHRISTOPHER RIVERA, an individual, DOES 1-20, inclusive, Defendant(s).	Case No.: CGC-24-612769 **DECLARATION OF DREW LEWIS IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL** Date: August 12, 2026 Time: 10:00 a.m. Judge: Hon. Ethan P. Schulman Dept.: 304 Complaint Filed: June 24, 2024 Trial Date: Not Set

DECLARATION OF DREW LEWIS

I, DREW LEWIS, declare as follows:

1. I am an attorney duly admitted to practice law before all courts of the State of California, I am an attorney in the law firm of Drew Lewis, PC, and I am one of the attorneys of record in this matter. If called upon to testify as to the matters stated herein, I could and would do so competently and truthfully. I make this declaration as counsel for Plaintiff Juan Carlos Rodriguez's ("Plaintiff") Motion for Preliminary Approval:

2. Plaintiff Juan Carlos Rodriguez ("Plaintiff") brought this class action individually and on behalf of other similarly situated current and former non-exempt employees of Defendants PER DIEM, LLC and PD TRANSBAY, LLC d/b/a PER DIEM (collectively, "Per Diem" or the "Entity Defendants"). Plaintiff alleges he worked for Entity Defendants as a server and bartender at Per Diem's Transit Center and Financial District locations from approximately October 2023 to March 15, 2024.(*See* Plaintiff's First Amended Complaint, a true and correct copy of which is attached hereto as **Exhibit A**; see also Declaration of Juan Carlos Rodriguez ("Decl. Rodriguez") filed herewith.)

3. Defendants have denied all of Plaintiff's allegations in their entirety and any liability or wrongdoing of any kind. (*See* the Parties' Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement" or "Agreement"), a true and correct copy of which is attached hereto as **Exhibit C**. Subject to approval by the Court, the parties have been able to compromise and settle all asserted claims for monetary compensation as a result of investigation, informal document, and data exchanges, and extended negotiations relating to all aspects of the asserted claims. (See **Exhibit C**.) I believe that the proposed class action and Private Attorneys General Act ("PAGA") Settlement ("Settlement") set forth in the Agreement is in the best interest of the Class Members based on the discovery, investigations, negotiations, and a detailed knowledge of the issues in this case. The prospect of potential class certification issues and the uncertainty of class certification, difficulties of complex litigation, the lengthy process of establishing specific damages, and various possible delays and appeals were carefully considered by Plaintiff and myself in agreeing to the proposed Settlement. Finally, I am not

aware of any conflict of interest between Plaintiff and the Class Members.

4. It is well within the discretion of this Court to grant preliminary and conditional approval of the Settlement, which satisfies all of the criteria for preliminary settlement approval under California law. Accordingly, Plaintiff requests that the Court: (1) preliminarily certify the proposed settlement class; (2) Preliminarily approve the proposed Settlement; (3) set dates for and direct distribution to the class of the Court-Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Notice of Settlement") which provides Class Members information regarding the Settlement, including information regarding the opportunity to opt-out of, or object to, the Settlement and notifies each Class Member of their expected pro rata share of the settlement (*see* the Parties' proposed Notice of Settlement, a true and correct copy of which is attached hereto as **Exhibit F**); and (4) adopt the Implementation Schedule contained in the proposed order and schedule a final approval hearing.

I. PROCEDURAL AND LITIGATION HISTORY

5. On February 28, 2024, Plaintiff filed a class action complaint against Per Diem, LLC, PD Transbay, LLC, Darren Matte (owner), Naomi Comstock, and Christopher Rivera in San Francisco County Superior Court. On April 16, 2024, Plaintiff filed the operative First Amended Class Action Complaint ("FAC") alleging nine causes of action: (1) failure to pay overtime; (2) failure to pay minimum wages; (3) failure to provide meal breaks; (4) failure to provide rest breaks; (5) failure to provide accurate wage statements; (6) conversion (unlawful tip diversion); (7) failure to timely pay wages during employment; (8) failure to pay all wages on discharge; and (9) violation of the Unfair Competition Law. *(See* **Exhibit A**.)

6. Plaintiff further alleges that on March 15, 2024—approximately two weeks after Plaintiff filed suit—Entity Defendants terminated Plaintiff's employment when he declined to sign a new employee handbook and arbitration agreement with a class action waiver. *(See* Decl. Lewis at **Exhibit A**, FAC ¶¶ 39–42; Decl. Rodriguez at ¶ 7.) The Court should be aware Plaintiff has separately entered into a settlement agreement with Defendants with respect to his individual claims including retaliation and wrongful termination. Plaintiff's counsel will be

prepared to discuss the individual settlement at the Motion hearing.

7. On April 16, 2024, Plaintiff filed a notice with the Labor and Workforce Development Agency ("LWDA") pursuant to the Private Attorneys General Act ("PAGA"), asserting violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 256, 351, 510, 512, 1194, 1197.1, and applicable IWC Wage Orders. (A true and correct copy of Plaintiff's LWDA notice is attached hereto as **Exhibit D**.)

8. On June 24, 2024, Plaintiff filed a related PAGA representative action (Case No. CGC-24-615825). (A true and correct copy of Plaintiff's Complaint in the PAGA action is attached hereto as **Exhibit B.**) On September 24, 2024, the Court consolidated the Class Action and PAGA Action into one proceeding and deemed it complex. The consolidated action is Case No. CGC-24-612769.

II. INVESTIGATION AND DISCOVERY CONDUCTED

9. Prior to and following the filing of this action, I conducted a thorough investigation of the facts and claims at issue. I reviewed Entity Defendants' tip pool records, including Toast point-of-service system screenshots spanning multiple locations and dates from 2022 through early 2024, demonstrating management's participation in the tip pool. *(*A true and correct copy of Entity Defendants' tip pool records, with name information redacted, is attached hereto as **Exhibit E**.)

10. Entity Defendants also provided payroll and time-keeping data that permitted Plaintiff's counsel to assess damages arising from the alleged time-shaving practices, meal break and rest break violations, and related wage statement deficiencies. Based on this data exchange and informal discovery, and with the assistance of a damages model, Plaintiff prepared a preliminary damages analysis that served as the basis for mediation.

11. The parties also exchanged information regarding the class size and composition. Entity Defendants provided payroll records reflecting that approximately 127 putative class members worked at the relevant locations during the class period. Of those 127 putative class members, approximately 48 have received Prior Release Payments as part of Entity Defendants'

"Pick-Up-Stix" campaign, reducing (or in some cases eliminating) their share of the Net Settlement Amount.

III. NEGOTIATION AND PROPOSED SETTLEMENT

A. Arm's-Length Negotiations

12. The parties engaged in arm's-length mediation on April 29, 2025, before Arthur Eidelhoch, Esq., an experienced mediator specializing in employment class actions. Prior to the mediation, the parties exchanged substantial informal discovery, including payroll records, tip pool data, and time-keeping records, enabling a meaningful assessment of liability and damages. After a full day of mediation and post-mediation negotiations, the parties reached the settlement presently before the Court.

B. Terms of Settlement

13. The complete terms of the settlement are set forth in the Settlement Agreement, attached hereto as **Exhibit C**. The material terms are summarized below.

1. Settlement Class Definition.

14. For settlement purposes only, the parties agree to certification of the following settlement class: all current and former non-exempt employees of the Entity Defendants who were employed by the Entity Defendants in the State of California at any time from February 28, 2020 to February 15, 2025, inclusive ((the "Class Members" or "Settlement Class"). The PAGA period covers the period between April 16, 2023 and February 15, 2025. (See **Exhibit C**, §§ 1.4, 1.8, 1.11, 1.36.)

2. Gross Settlement Amount.

15. Entity Defendants agree to pay a non-reversionary Gross Settlement Amount ("GSA") of **$160,000** to resolve all class and PAGA claims. The GSA encompasses Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses, Class Representative Service Payment, and the Administrator's Expenses. No portion of the GSA reverts to Entity Defendants. *(See* **Exhibit C**,

§ 1.21.)

3. PAGA Payment.

16. Of the GSA, $5,000 is allocated as the "PAGA Penalties." Consistent with Labor Code section 2699(i), 75% of the PAGA Penalties ($3,750) will be paid to the LWDA, and the remaining 25% ($1,250) will be distributed to the PAGA Employees on a pro-rata basis as Individual PAGA Payments. *(See* **Exhibit C**, § 1.35.)

4. Class Representative Service Payment.

17. Subject to Court approval, Plaintiff Juan Carlos Rodriguez will receive a Class Representative Service Payment of $5,000 in recognition of the services he rendered to the Settlement Class and the risks he assumed in prosecuting this action.*(See* **Exhibit C**, § 3.2.1.)

5. Class Counsel Fees Payment and Litigation Expenses Payment.

18. The Settlement Agreement provides that Plaintiff's counsel may apply to the Court for Class Counsel Fees Payment of up to one third of the GSA, or $53,333. Plaintiff's counsel intends to seek 33% of the GSA—$52,800—which is within the range routinely approved in California wage-and-hour class action settlements of this type. *(See* **Exhibit C**, § 3.2.2; *Laffitte v. Robert Half Internat., Inc.*, (2016) 1 Cal.5th 480, 503.)

19. Plaintiff's counsel will also seek reimbursement of Litigation Expenses Payment in the amount of $9,799.27. *(See* Decl. Lewis at **Exhibit C**, § 3.2.2; **Exhibit G**.)

6. Settlement Expenses.

20. The parties have agreed to retain ILYM Group, Inc. as the Settlement Administrator. The Administration Expenses Payment is not to exceed $5,450.00, which will be paid from the GSA. *(See* **Exhibit C**, § 3.2.3; **Exhibit H**.)

7. Net Settlement Amount and Distribution.

21. After deduction of the PAGA Payment ($5,000), the Class Representative Service Payment ($5,000), Class Counsel Fees Payment ($52,800), Class Counsel Litigation Expenses Payment ($9,799.27), and Administration Expenses Payment ($5,450.00), the

remaining Net Settlement Amount will be distributed to Settlement Class Members on a pro-rata basis according to the number of workweeks each class member worked during the class period, excluding any workweeks covered by Prior Release payments made by Entity Defendants to individual Settlement Class Members. Settlement Class Members will not be required to submit claims—all who do not timely opt out will receive a payment. *(See* **Exhibit C**, §§ 1.22, 1.28, 1.40, 3.2.4.)

8. Release.

22. In exchange for the settlement consideration, Settlement Class Members who do not opt out will release all wage-and-hour claims arising during the class period that were alleged or could have been alleged based on the facts in the operative complaint, including claims under California Labor Code sections 201–204, 210, 226, 226.7, 256, 351, 510, 512, 558, 558.1, 1194, 1197.1, and applicable IWC Wage Orders, as well as derivative UCL claims. The PAGA release covers civil penalties for all Labor Code violations alleged in the PAGA Notice during the PAGA Period. *(See* **Exhibit C**, § 6.2.)

IV. SETTLEMENT FAIRNESS

A. The Settlement Is Fair and Reasonable Based on the Strength of Plaintiff's Case and the Risks and Costs of Further Litigation.

1. The Class Settlement Amount Is Reasonable.

23. *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116 requires additional information be presented to the Court, acting as a fiduciary for the absent class members "to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation …" (*Id*. at 129.) *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399 clarified that a *Kullar* showing does not require the parties to submit an illusory prediction of the outer reaches of exposure without taking into account the actual risks of certification, decertification, dispositive motions, and trial. *Kullar* also does not require an explicit statement of the maximum amount the

plaintiff class could recover if it prevailed on all its claims provided there is a record that allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." (Id. at 409.) The *Munoz* Court found that the record before the trial court was sufficient, having included the number of class members, payroll data, declarations describing hours and overtime worked, as well as variances in duties and rest and meal period experience, and a companion action alleging less than $5,000,000 in damages. This information constituted "an adequate basis from which to garner a reasonably adequate understanding of the amount that is in controversy within the meaning of *Kullar*." (*Id*.)

24. A review of the Agreement's terms does not give rise to any doubts about its fairness. The GSA of $160,000 represents a meaningful recovery for the Settlement Class in light of the litigation risks described above. My firm prepared a damages model estimating potential exposure of approximately $282,470 in class damages based on a sampling of class member time records and witness interviews to evaluate potential violation rates. The GSA of $160,000 represents approximately 56.6% of the maximum estimated class exposure, and the estimated Net Settlement Amount of $81,950,73 represents approximately 29.01% of the maximum estimated class exposure. These percentages are consistent with settlements approved in comparable California wage-and-hour cases.

25. Courts have consistently approved settlements representing a fraction of maximum exposure where, as here, there is uncertainty as to liability and significant risk that damages would be lower at trial. *Wershba v. Apple Computer, Inc.*, (2001) 91 Cal.App.4th 224, 250 ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not mean the settlement is not fair and reasonable."); *Kullar v. Foot Locker Retail, Inc.*, (2008) 168 Cal.App.4th 116, 133 (approving settlement providing a fraction of maximum damages given litigation risks; see also *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1139; *Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 628; see also *In re Omnivision Technologies, Inc.* (N.D. Cal. 2008) 559 F. Supp. 2d 1036, 1042 (noting that certainty of recovery in settlement of 6% of maximum potential recovery after reduction for attorney's fees was higher than median percentage for recoveries in shareholder

class action settlements, averaging 2.2%-3% from 2000 through 2002); *Bravo v. Gale Triangle, Inc.* (C.D. Cal., 2017) 2017 WL 708766, at *2 (approving a settlement where the net recovery to class members was approximately 7.5% of the projected maximum recovery amount); *Avila v. Cold Spring Granite Company* (E.D. Cal. 2018) 2018 WL 400315, at *6 (approving a settlement with a gross recovery of 11% of the projected maximum damages available and a net recovery of approximately 6.7% of the projected maximum recovery); *Bellinghausen v. Tractor Supply Co.,* (N.D. Cal 2015) 306 F.R.D. 245 (approving a settlement where the gross recovery was approximately 8.5% of the projected maximum recovery.))

2. The PAGA Settlement Amount Is Reasonable.

26. Under PAGA, civil penalties may be settled with court approval upon a showing that the settlement is "fair and reasonable in light of the facts and circumstances." *Moniz v. Adecco USA, Inc.*, (2021) 72 Cal.App.5th 56, 77. The Court must "ensure that any negotiated resolution is consistent with the public policies underlying PAGA." *Id.*

27. The PAGA settlement here satisfies this standard. The $5,000 PAGA allocation is approximately 3.13% of the Gross Settlement Amount of $160,000 and approximately 1.23% of maximum potential PAGA penalties of $407,245 under Plaintiff's counsel's most favorable estimate. This represents a reasonable compromise in light of the difficulties of proving each alleged Labor Code violation on a workweek-by-workweek basis for all aggrieved employees, the cost and risk of PAGA litigation through trial, and Entity Defendants' ability to pay. Courts reviewing class and PAGA settlements have approved comparable PAGA allocations in similar wage-and-hour settlements. *See, e.g., Davis v. Cox Commc'ns California, LLC* (S.D. Cal. 2017) 2017 WL 1496407, at *1 (preliminarily approving $4,000 PAGA allocation in $275,000 settlement); *Jack v. Hartford Fire Ins. Co.* (S.D. Cal. 2011) 2011 WL 4899942, at *6 (approving $3,000 PAGA allocation in $1,200,000 settlement); *Singer v. Becton Dickinson & Co.* (S.D. Cal. 2010) 2010 WL 2196104, at *2 (approving $3,000 PAGA allocation in $1,000,000 settlement); *Hopson v. Hanesbrands Inc.* (N.D. Cal. 2009) 2009 WL 928133, at *9 (approving $1,500 PAGA allocation in $1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.* (E.D. Cal. 2012) 2012

WL 5364575, at *7 (approving $10,000 PAGA allocation in a $3,700,000 settlement); *Chu v. Wells Fargo Investments, LLC* (N.D. Cal. 2011) 2011 WL 672645 at *1 (approving PAGA settlement payment of $7,500 to the LWDA out of $6.9 million common-fund settlement.).

3. The Risks and Costs of Litigation Support the Settlement

28. This case involves significant risk at all stages of the litigation, and continued litigation presents substantial risks. Although Plaintiff believes his claims are meritorious, Defendants have vigorously contested liability. Entity Defendants deny that managers' participation in the tip pool was unlawful, dispute the extent of any time-shaving, and contend that meal and rest break policies were compliant. *(See* **Exhibit C**, Recital E.)

29. Plaintiff also faces certification risks. Entity Defendants would likely argue that individual issues—particularly regarding which employees were denied breaks on which shifts—predominate. Even if class certification were granted, there is risk that the class would not survive a decertification motion. The settlement eliminates these risks and provides certain, immediate relief.

30. Additionally, class actions are inherently complex, expensive, and time-consuming. Absent settlement, this case would require substantial additional litigation—including completion of formal class discovery, briefing and hearing of a class certification motion, merits discovery, expert discovery, dispositive motions, trial, and likely appeals. The expense of such proceedings would consume a significant portion of any recovery. Further, class certification in wage-and-hour cases is not guaranteed, and courts have declined to certify classes where the predominance of individual issues — such as individualized break practices, varying schedules, or mixed employment arrangements — outweigh the common questions. A denial of certification would effectively end the class action and limit Plaintiff to pursuing only his own individual claim, resulting in a substantially lower recovery. Settlement eliminates this risk and ensures that all class members receive a pro rata share of the settlement proceeds.

31. In evaluating risk, I also considered the prospect that derivative claims, such as penalties for wage statement violations and waiting time penalties, may be discounted or

disallowed as either technical violations or the result of a good faith dispute, for example the contested legal issues surrounding Plaintiff's tip diversion claims. Similarly, PAGA penalties are subject to the Court's broad discretion to reduce them, and a significant reduction in PAGA penalties on the grounds of proportionality or good faith efforts at compliance remained a real possibility. It is possible, perhaps even likely, that the Court could significantly reduce the PAGA penalties for the same reasoning.

32. An additional and practical risk factor bearing on the settlement value is the financial condition of Entity Defendants. Counsel for Defendants represented that the business has limited assets and threatened that the business would simply shut down if faced with a large judgment. This raised legitimate concerns regarding collectability — even a favorable judgment would be of diminished practical value if Entity Defendants lacked the financial resources to satisfy it. The existence of a negotiated, non-reversionary settlement fund guarantees class members a real recovery rather than a paper judgment that may prove uncollectible.

V. PLAINTIFF'S COUNSEL'S PROFESSIONAL EXPERIENCE

33. I am the sole shareholder of Drew Lewis, PC. In agreeing to represent Plaintiff and take on the case for all putative class members and Aggrieved Employees, I agreed to take this case on a contingency basis, meaning that I would take a percentage of any settlement or judgment should we recover a monetary amount. I took a risk that we would not recover any money in this matter if we were unsuccessful at trial. I also took on the risk that the case may not be certified as a class action and/or be subject to an unfavorable summary judgment ruling. However, I believe it is important to make sure employees are able to find affordable representation in order to ensure that employers are complying with all their legal obligations towards employees and paying employees all earned wages.

34. My law firm practices exclusively employment litigation, with an emphasis in wage and hour litigation. I received a B.A. degree in Political Science from the University of California, Berkeley and a J.D. degree from University of California Hastings College of the Law in 2015. I have been licensed to practice law in California since May 2016.

35. I have litigated well over 100 cases. This includes taking five of these cases to trial, and countless others to the eve of trial before resolution was reached. A substantial number of the cases litigated by my firm have involved wage and hour disputes involving the same issues in this case, including failure to pay overtime, minimum wage, meal and rest premiums and other penalties based on violation of these statutes.

36. Additionally, I have experience litigating wage and hour class actions and have been appointed as class counsel in wage and hour class and/or PAGA actions. Thus, I am qualified to evaluate the class claims, value of settlement versus moving for certification and going to trial, and the viability of possible affirmative defenses. Based on my extensive experience litigating and trying cases involving the same claims here, I believe that the settlement is fair and reasonable in light of the complexities of the case, the uncertainties of class certification and litigation, and the secured benefit to the class.

VI. REASONABLENESS OF LEGAL FEES AND COSTS REQUESTED

37. The typical percentage negotiated between parties' ranges from thirty-five to forty-five percent (35% to 45%) in individual litigation depending on the complexity of the case. In class action litigation, the typical percentage negotiated between parties' ranges from thirty to forty percent (30% to 40%) based on the same factors. Plaintiff's request of 33 percent is well within the range typically recognized as reasonable. (See, e.g., *In re Heritage Bond Litigation* (C.D. Cal., 2005) 2005 WL 1594403, at *3 (finding 33 1/3 percent of common fund award reasonable.)

38. The quality of counsel and the settlement payments to class members and PAGA Employees also support the fee request when compared to other settlements courts have considered as good results. (See *Gardner v. GC Services, LP* (S.D. Cal. 2010) 2010 WL 2721271, at *1 ("the results achieved in this case were very favorable. Class members are provided with immediate monetary relief, with an average award of around several hundred dollars and a minimum award of $50").

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VII. LODESTAR CROSS-CHECK

39. Because of my experience trying cases, I have regularly filed fee motions. In 2023, my requested rate of $625 was approved in San Francisco and Los Angeles for separate matters. My requested hourly rate of $725 is reasonable given my extensive experience litigating and trying employment cases, which adds substantial value to representation of my clients. This rate is also justified here in this case.

40. Dan Schnebly is a licensed attorney who attended Arizona State University and graduated *cum laude* with a J.D. in 2002. He has been in practice since 2004. Mr. Schnebly has over 20 years' experience practicing employment litigation, representing both employers and employees. During this time, he has litigated hundreds of wage and hour cases. Mr. Schnebly was approved at a rate of $900 in 2023 in Los Angeles Superior Court, and his current hourly rate is $1,000.

41. All members of my staff must keep comprehensive, contemporaneous, detailed records of all legal and non-legal work performed in this matter pursuant to the Firm's time-keeping policies and practices.

42. The chart below summarizes my firm's time spent on this matter:

Attorney	Experience	Hourly Rate	Total Hours	Total Lodestar
Drew Lewis	10 years	$725	30.3	$21,968
Dan Schnebly	22 years	$1,000	117.1	$117,100
Julie Kraus	Paralegal	$250	14.7	$3,675
Miranda Bennetts	Paralegal	$250	0.1	$25
Andreina Gonzalez	Legal Assistant	$175	44.7	$7,823
Harmoni Levtsenyuk	Legal Assistant	$175	10.6	$1,855
Totals			217.5	$152,445

43. Plaintiff's counsel is seeking fees of 33% of the Gross Settlement Amount, or $52,800. These requested fees are only 34.6% of the lodestar of $152,445, representing a significant downward multiplier to the lodestar.

VIII. PLAINTIFF'S COUNSEL INCURRED SIGNIFICANT RISK

44. This case was taken on a contingency basis where our firm does not get paid unless we are able to recover money for the Plaintiff(s). Additionally, we advance all costs in the matter. It is my experience, having represented hundreds of employees, that the vast majority of employees are unable to afford hourly legal representation. But for law firms that take cases on contingency, they would have no access to civil justice. However, this type of arrangement creates substantial risk for lawyers who take on these cases.

45. Contingency cases are inherently risky because of the risk of loss and/or the risk that the amount awarded/recovered will not fully compensate lawyers for their work on the case. Even if recovery does happen, my law firm has loaned out services to the Plaintiff while still being responsible for meeting essential operating costs, such as salaries, of running a law firm.

46. It is well-established that "contingent risk" is an important factor that weighs in favor of granting an upward enhancement of the lodestar. (*See, e.g., Serrano III*, 20 Cal. 3d at 49; *Crommie v. State of Cal., Public Utilities Com'n, 840 F. Supp. 719 (N.D. Cal. 1994)* at 725; *Ketchum* 24 Cal. 4th at 1132.) If I had represented a fee-paying client, I would have been paid the lodestar amount at the time I provided legal services and on an ongoing basis throughout the litigation, without incurring the risk of non-payment or delayed payment that comes with contingency representation. In *Ketchum*, the Court emphasized the critical importance of granting an upward enhancement in contingency cases as follows:

> "A contingent fee ***must*** be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans. A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases."

(*Ketchum*, 24 Cal. 4th at 1132-33 (emphasis added) (internal quotations and citations omitted).

47. In light of the foregoing and my firm's extensive experience representing

employees in wage and hour matters, including complex and representative actions, and our significant trial experience, the fees requested in this action are appropriate.

IX. COSTS OF SUIT

48. My firm's total costs are **$**9,799.27 and include filing fees, expert analysis fees, and mediation fees. Those costs are detailed in my firm's Statement of Costs, a true and correct copy of which is attached hereto and incorporated herewith as **Exhibit G**.

X. CLASS REPRESENTATIVE SERVICE PAYMENT

49. The Parties have agreed that Plaintiff will be paid a Class Representative Service Payment in an amount up to $5,000. This payment is intended to recognize the time and effort that Plaintiff spent on behalf of other class members and the State in bringing this case forward.

50. I believe the full award amount of $5,000.00 is appropriate. Plaintiff was involved in all phases of the litigation from initial claims investigation, development of the case theory, and participation in mediation, and the risks he took in filing suit. Plaintiff brought this action knowing there would be a delay in any payment as the litigation progressed, rather than proceeding on individual claims before the California Labor Commissioner. Because of Plaintiff's efforts and willingness to be the only named plaintiff in this lawsuit, the putative class will receive a substantial benefit, including payouts for the unpaid wages that are owed to them.

XI. SUBMISSION OF SETTLEMENT TO LWDA

51. Plaintiff has concurrently submitted the Settlement to the LWDA in accordance with Labor Code Section 2699(1)(2). The proof of submission is attached hereto as **Exhibit I.**

I declare under penalty of perjury that the facts stated in this declaration are true and correct and that this declaration was executed on July 22, 2026, in Roseville, California.

Drew Lewis

DREW LEWIS