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10 Attorneys for Plaintiff DIEGO ORNELAS
on behalf of himself and all other similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN FRANCISCO**

13 DIEGO ORNELAS, an individual, on behalf
of himself and others similarly situated,

14 Plaintiff,

15 vs.

16 NATIONAL STORAGE AFFILIATES
17 TRUST, a Maryland real estate investment
trust; INTANDEM HUMAN RESOURCES,
18 LLC, a Colorado limited liability company;
STORAGE MANAGEMENT AND
19 LEASING CO., LLC, a Florida limited
liability company; ISTOREAGE JV, LLC, a
20 Delaware limited liability company; and
DOES 1 through 50, inclusive,

21 Defendants.
22

Case No.: CGC-18-571421

CLASS ACTION

Assigned for Law and Motion Purposes To:
Hon. Curtis E.A. Karnow
Dept.: 611, Civic Center Courthouse

**DECLARATION OF ALVIN B. LINDSAY
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
AMENDED JOINT STIPULATION OF
CLASS ACTION SETTLEMENT**

*[Filed concurrently with Unopposed Motion;
Memorandum of Points and Authorities;
Declarations of David Yeremian and Diego
Ornelas; and [Proposed] Order]*

Date: May 20, 2021
Time: 4:00 p.m.
Department 611

Complaint Filed: November 19, 2018
First Amended Complaint: March 28, 2019
Trial Date: None Set

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

04/22/2021
Clerk of the Court

BY: SANDRA SCHIRO
Deputy Clerk

1 **DECLARATION OF ALVIN B. LINDSAY**

2 I, Alvin B. Lindsay, declare:

3 1. I am an attorney licensed and admitted to practice before all courts of the State of
4 California, the United States District Court for the Central, Southern, Eastern, and Northern
5 Districts of California, and the Ninth Circuit Court of Appeals. I am senior counsel with David
6 Yeremian & Associates, Inc., counsel for Plaintiff DIEGO ORNELAS (“Plaintiff”), on behalf of
7 himself and all other similarly situated employees of Defendants, NATIONAL STORAGE
8 AFFILIATES TRUST (“NSAT”), INTANDEM HUMAN RESOURCES, LLC (“InTandem”),
9 STORAGE MANAGEMENT AND LEASING CO., LLC (“SMLC”), and I STORAGE JV, LLC
10 (“iStorage”) (collectively, “Defendants”) (with Plaintiff, “the parties”). I have personal knowledge
11 of the facts herein and if called as a witness, I could and would competently testify.

12 2. All of the matters set forth herein are within my personal knowledge, except those
13 matters that are stated to be upon information and belief. As to such matters, I believe them to be
14 true. I have represented Plaintiff and the putative Class since the inception of this matter. I submit
15 this Declaration in support of the Motion for Preliminary Approval, filed by Plaintiff, on behalf of
16 himself and other similarly situated employees of Defendants, and without opposition from
17 Defendants, of the parties’ Amended Joint Stipulation of Class Action Settlement (“Settlement
18 Agreement”), a copy of which is attached to the concurrently filed Declaration of David Yeremian
19 as **Exhibit A**. Also provided for the Court’s approval is the Notice of Class Action Settlement
20 (“Class Notice”) at **Exhibit 1** to the Settlement. This is the second motion for preliminary
21 approval and the documents include revisions and additions to address the Court’s required items
22 in its Order denying the original motion. A summary of these required items and the measures
23 taken by the parties to address them is provided at **Exhibit B** to the Yeremian Declaration.

24 **QUALIFICATIONS AND ADEQUACY OF CLASS COUNSEL**

25 3. I have litigated complex civil actions for eighteen years, focusing on intellectual
26 property litigation and employment wage and hour class actions. I have the requisite knowledge of
27 class and representative proceedings, applicable class action and employment law, and federal and
28 state court procedures, to represent Plaintiff and the putative Class and Subclasses in the action.

1 For the past ten years, I have primarily focused my practice on litigating complex California wage
2 and hour class actions, first with the firm of James Hawkins, APLC, then with Quintilone &
3 Associates, and now with David Yeremian & Associates, Inc. In the course of representing class
4 plaintiffs, I have litigated and settled over 100 class actions in California state and federal courts
5 on behalf of hundreds of thousands of employees.

6 4. I graduated from Whittier Law School, and have been practicing in California for
7 over 18 years. I was Executive Editor of the Whittier Law Review, was a Scribes Award winner,
8 and served as a judicial extern to the Honorable David G. Sills, presiding justice of the California
9 Court of Appeal, 4th District, Division 3. During my second year in law school, I began clerking
10 full time for the well-respected intellectual property boutique firm, Fulwider Patton, in Los
11 Angeles, California. When I graduated, I became an attorney with the firm and served there for
12 five years, and was active in the Inns of Court. My practice focused on intellectual property
13 prosecution and litigation, and I spent the majority of my time representing clients in patent
14 infringement litigation. I also served in a similar capacity for the San Francisco firm, King &
15 Kelleher, for three years, and appeared predominantly in the Central and Northern District of
16 California Courts prosecuting and defending patent infringement actions.

17 5. Prior to attending law school, I graduated from the United States Military Academy
18 at West Point. I then served as an Army Officer for 10 years in the Corps of Engineers, in various
19 stateside and overseas postings. I was a combat engineer company commander, was stationed in
20 Germany when the Berlin Wall fell, and am a veteran of Operation Desert Shield/Desert Storm. I
21 also served in the Reserves and advanced to the rank of Major.

22 6. Since 2010, I have been the senior attorney responsible for the day to day litigation
23 of well over 100 wage and hour class and representative actions on behalf of employee class
24 members and aggrieved employees. I have had numerous contested class action cases certified,
25 and have secured settlements for many millions of dollars for our clients. I am experienced and
26 qualified to evaluate the class and representative claims, to evaluate settlement versus trial on a
27 fully informed basis and to evaluate the viability of the defenses. I enjoy being an attorney, and
28 especially being a complex civil litigator focusing on class and representative action proceedings. I

1 value the fact that what we do is a profession, and I value the professional relationships I have
2 developed with my fellow plaintiffs' counsel and the attorneys from the well-respected corporate
3 defense firms we litigate against on a daily basis.

4 7. David Yeremian & Associates, Inc. is well-qualified and has ample experience,
5 knowledge, and resources to act as counsel and represent Plaintiff and the putative Class and
6 Subclasses and aggrieved employees in this action. Our practice is exclusively focused on
7 employment matters, with the majority of focus being devoted to litigating wage, hour, and
8 working-conditions violations on a class-wide basis. Further background on our firm is addressed
9 in the Yeremian Declaration.

10 8. My participation in wage and hour class and representative action litigations in
11 California has included extensive preparation, development of a thorough knowledge of the legal
12 issues related to certification and liability, and full immersion and participation in the mediation
13 and negotiation process. I am therefore experienced in the type of class and representative action
14 litigation involving violations of California's wage and hour laws which are the subject of this
15 action. To that end, for example, I was asked by the California Employment Lawyers Association
16 to draft an amicus brief, which contributed to the California Supreme Court's decision in *Alvarado*
17 *v Dart Container Corp. of California*, 4 Cal. 5th 542 (2018).

18 9. The following are examples of some of my cases which have resulted in class
19 certification and favorable settlements for the employee class members and aggrieved employees I
20 have represented:

- 21 a. *Batres v. HMS Host USA, Inc. et al.*, CD Cal Case No. SACV 10-01458 CJC (AJWx)
22 (Hon. Cormac J. Carney);
- 23 b. *Barrera v Sodexo, Inc.*, CD Cal Case No. SACV 13-0817 AG (MANx) (Hon. Andrew
24 J. Guilford);
- 25 c. *Mojica v Compass Group, et al.*, CD Cal Case No. 8:13-cv-01754 DSF (AGR) (Hon.
26 Dale S. Fischer);
- 27 d. *Aguilar v 7-Eleven*, Orange County Superior Court, Case No. 30-2009-00268714-CU-
28 OE-CXC (Hon. Kim G. Dunning);

- 1 e. *Pedro M. Guerrero v. E-Recycling of California*, Orange County Superior Court Case
2 No. 30-2012-00552453-CU-OE-CXC (Hon. Gail A. Andler);
- 3 f. *Virginia Rodriguez v Exel Inc.*, San Bernardino County Superior Court, Case No.
4 CIVDS 1104594 (Hon. Bryan F. Foster)
- 5 g. *Palacios v LKQ Lakenor Auto & Truck Salvage, Inc., et al.*, Orange County Superior
6 Court, Case No. 30-2012-00552979-CU-OE-CXC (Hon. Steven L. Perk);
- 7 h. *Ayala et al. v Park Anaheim Health Care, LLC*, Orange County Superior Court, Case
8 No. 30-2013-00649442-CU-OE-CXC (Hon. Gail A. Andler);
- 9 i. *Daniel v Xerxes Corporation*, Orange County Superior Court, Case No. 30-2010-
10 00418048-CU-OE-CXC (Hon. Gail A. Andler);
- 11 j. *Magana v HVM L.L.C. et al.*, Orange County Superior Court Case No. 30-2011-
12 00468712-CU-OE-CXC (Hon. Gail A. Andler);
- 13 k. *Vo v Express Manufacturing, Inc.*, Orange County Case No. 30-2012-00552641-CU-
14 OE-CXC (Hon. Gail A. Andler);
- 15 l. *Yac v Paper Source Converting & Manufacturing*, Los Angeles Superior Court, Case
16 No. BC 472113 (Hon. Michael L. Stern);
- 17 m. *Bui v Sprint Corporation*, ED Cal Case No. 2:14-CV-02461-TLN-AC (Hon. Troy L.
18 Nunley);
- 19 n. *Munoz v Stine CC Inc (Chevron)*, (Hon. Lorna H. Brumfield), Kern County Superior
20 Court, S-1500-CV-283104-LHB;
- 21 o. *Alcaraz v County of San Bernardino*, San Bernardino County Superior Court, Case
22 No. CIVDS 1013508 (Hon. John M. Pacheco);
- 23 p. *Andrews v Stoneledge Furniture, LLC*, San Bernardino County Superior Court, Case
24 No. CIVDS 1706865 (Hon. David Cohn);
- 25 q. *Burson v Best Western All Suite, LLC*, Santa Cruz County Superior Court, Case No.
26 CV179684 (Hon. Paul M. Marigonda);
- 27 r. *Fernandez v Comforcare Senior Services, et al.*, San Diego County Superior Court,
28 Case No. 37-2015-00032396-CU-OE-CTL (Hon. Gregory W. Pollack);

- 1 s. *Quiroz, Haslett v SWH Corporation, dba Mimi's Café*, Orange County Superior
2 Court, Case No. 30-2011-00493645-CU-OE-CXC (Hon. William Claster);
- 3 t. *Wells Fargo Bank Wage and Hour Cases*, Los Angeles County Superior Court, Case
4 No. JCCP No. 4702 (Hon. Kenneth R. Freeman);
- 5 u. *Loeza v JP Morgan Chase Bank NA*, SD Cal. Case No. 13-cv-00095-L-BGS (Hon. M.
6 James Lorenz);
- 7 v. *Cunningham v Leslie's Poolmart, Inc.*, CD Cal. Case NO. 13-cv-02122-CAS-CWx
8 (Hon. Christina A. Synder);
- 9 w. *Perez et al v. Irvine Capital Restaurant dba Capital Seafood Restaurant*, Orange
10 County Superior Court, Case No. 30-2016-00834023-CU-OE-CXC (Hon. Thierry
11 Patrick Colaw);
- 12 x. *Robarge et al. v DCOR, LLC*, Los Angeles County Superior Court, Case No.
13 BC630278 (Hon. Kenneth R. Freeman);
- 14 y. *Rubio v Sprint Corporation*, CD Cal. Case No. 2:17-cv-02231-SVW-GJS, (Hon.
15 Stephen V. Wilson);
- 16 z. *Tapia v Sterling Jewelers Inc.*, ND Cal. Case No. 5:14-cv-00624-EJD (Hon. Edward J.
17 Davila);
- 18 aa. *Thompson v The Standard Hotel*, Los Angeles County Superior Court, Case No.
19 BC597152 (Hon. Kenneth R. Freeman);
- 20 bb. *Ward v. JetSuite, Inc. et al.*, CD Cal. Case No. 8:16-cv-00584-AG-AS (Hon. Andrew
21 J. Guilford).
- 22 cc. *Rowser v. Trunk Club, Inc.*, CD Cal. Case No. 2:17-cv-05064-DSF-RAO (Hon. Dale
23 S. Fischer).
- 24 dd. *Rodriguez v PD Products, Inc.*, Los Angeles County Superior Court, Case No.
25 BC696710 (Hon. Mauren E. Nelson).
- 26 ee. *Basiliali v Allegiant Air, LLC*, CD Cal. Case No. 2:18-cv-3888 RGK (MRWx) (Hon.
27 R. Gary Klausner).
- 28

- 1 ff. *Hernandez v Fedex Ground Package System, Inc.*, ND Cal. Case No. 3:17-cv-02074-
2 VC (Hon. Vince G. Chhabria).
- 3 gg. *Savinovich v Starbucks Corporation, Evolution Fresh, Inc. et al.*, Santa Cruz County
4 Superior Court, Case No. 17CV02050 (Hon. Paul Burdick).
- 5 hh. *Verdugo v Denali Water Solutions, LLC*, CD Cal Case No. 5:18-cv-00170-ODW
6 (SHK) (Hon. Otis D. Wright II).
- 7 ii. *Zepeda v MasTec Network Solutions, LLC, et al.*, CD Cal. Case No. 5:18-cv-00749-
8 VAP-SHK (Hon. Virginia A. Phillips).
- 9 jj. *Sanchez v Pacific Southwest Container, Inc.*, Stanislaus County Superior Court, Case
10 No. 2028679 (Hon. Marie Sovey Silveira).
- 11 kk. *Sanchez v AM Retail Group*, ND Cal. Case No. 3:18-cv-00287-JCS (Hon. Joseph C.
12 Spero).

13 10. The above matters are not exhaustive, but provide samples of the types of class and
14 representative action litigations I have successfully resolved. David Yeremian & Associates, Inc.
15 is presently prosecuting approximately 100 class and representative action litigations in state and
16 federal courts across California, including multiple other cases in San Francisco County. We also
17 have several actions that are in the stages of preliminary and final approval.

18 11. My experience in litigating employment wage and hour matters has been integral in
19 identifying legal issues, evaluating the strengths and weaknesses of a case, and generally
20 negotiating fair and reasonable class and representative action settlements. Practice in the narrow
21 field of wage and hour litigation requires skill and knowledge concerning the constantly evolving
22 substantive law (state and federal), as well as the procedural law of class and representative action
23 litigation. In this action, I am fully equipped to use the skills and knowledge I have developed
24 through over a decade of prosecuting and defending wage and hour class actions to fairly and
25 adequately represent the interests of the Class and aggrieved employees. Therefore, based on my
26 resources, experience, and knowledge, I am well-qualified to act as class counsel and represent the
27 Plaintiff and the putative class members and aggrieved employees in this action.

28

1 12. As a result of my prior experience as class counsel in other wage and hour class
2 and representative actions, I am fully aware of the responsibilities I would owe as counsel to the
3 Settlement Class Members and aggrieved employees I represent. I have thoroughly investigated
4 the claims asserted in this action, and I and our firm have remained committed to dedicating the
5 resources necessary to represent the Settlement Class and vigorously pursue their claims. Based
6 upon my experience and understanding of the claims and defenses in this action, I believe the
7 settlement is fair, adequate and reasonable for the Class members and aggrieved employees and all
8 involved, and that the Settlement is well within the range of reasonableness that would permit it to
9 be finally approved. I am not aware of any conflict of interest between myself and Plaintiff or any
10 other Class member that would interfere with my duties as Class Counsel or impede my
11 representation. Since the start of 2020, my hourly rate has been \$700/hr and has been approved in
12 several similar class and representative action settlements in both state and federal courts.

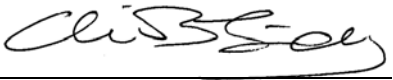
13 13. On August 18, 2020, the Court issued a tentative ruling denying the motion for
14 preliminary approval of the original Settlement Agreement and providing a substantial number of
15 issues for the parties to address in an Amended Settlement Agreement and Amended Class Notice,
16 and in the present documents filed in support of their approval. The parties did not challenge the
17 ruling, and on August 19, 2020 the Court adopted it as the final ruling. On September 15, 2020,
18 after counsel neglected to provide timely notice of the ruling and prepare a version of the Order,
19 the Court did so on its own and entered its Order denying the motion without prejudice as to the
20 present amended filings. I respectfully offer no excuse for this oversight and ask for the Court's
21 understanding. I should have caught this in the Court's tentative, and should have been well-aware
22 of the requirement even without the Court asking. Based on my experience and background
23 addressed above, I assure the Court that this oversight is not reflective of the usual standards I
24 hold myself to. I respectfully request that the Court weigh my experience and efforts against this
25 oversight in evaluating counsel's adequacy to represent the Plaintiff and the Class. The passage of
26 time since the original motion hearing has been dedicated to conferences of counsel to address
27 each of the Court's points and agree to amended documents. Despite the diligent efforts of the
28 parties and their counsel, It has taken some time to finalize the Amended Settlement and Notice

1 and all the revisions to the documents with Defendants and their counsel, and to attain approval of
2 them by multiple levels of Defendants' corporate structure. Further delay has been caused by the
3 press of other matters and the operational challenges Defendants have faced during this past year.
4

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.

7 Executed this 21st day of April, 2021, at Glendale, California.

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Alvin B. Lindsay