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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

JCCP 5231

**ABLE SERVICES WAGE AND HOUR  
CASES**

Superior Court of California, County of  
Alameda Case No. RG15773582

Included actions:

Superior Court of California, County of  
Orange Case No. 30-2016-00839857

*Garibay, et al. v. Able Services, et al.*

*Uribe v. Building Maintenance Co.*

**DECLARATION OF JUSTIN REGUS IN  
SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

1 I, Justin Regus, declare:

2 1. I am more than 18 years of age. I have personal knowledge of the facts set  
3 forth in this declaration and, if called as a witness, I could and would competently testify  
4 thereto.

5 2. I am an economic analyst and the founder and President of Agility Economics,  
6 LLC. For more than 20 years, I have provided economic and financial analyses for parties  
7 involved in litigation, transactions, and other similar events. Prior to founding Agility  
8 Economics, I performed these analyses while employed at prominent international  
9 professional services firms, including Navigant Consulting and, most recently, KPMG. While  
10 employed at these firms, I also created and taught courses to my colleagues on topics  
11 including database analysis, computer programming, and statistical methods, among others. In  
12 2010, I earned the Chartered Financial Analyst (“CFA”) designation, which is internationally  
13 recognized as the preeminent certification for financial analysts. For the subsequent ten years  
14 I taught the Economic Analysis course in the CFA Level 3 exam review program for the CFA  
15 Society of Los Angeles. I regularly analyze databases of time and pay records in the context  
16 of employment litigation, on behalf of both employers and groups of employees, to quantify  
17 the potential damages and penalties at stake. These cases have included class action disputes  
18 as well as cases brought pursuant to the Private Attorneys General Act. I have provided  
19 analyses relevant to both civil and criminal litigation, and I have been qualified as an expert  
20 and testified at deposition and at trial. My prior testimony includes opinions related to analysis  
21 of databases, including data on gasoline prices and coffee sales. I have also provided analyses  
22 relied upon by other experts in their testimonies regarding wage and hour disputes, employee  
23 misclassification litigation, and employment discrimination cases. Attached hereto as **Exhibit**  
24 **1** is a true and correct copy of my CV.

25 3. The Law Office of Arash N. Alizadeh (“Counsel”), counsel for Plaintiff in this  
26 action, retained me with respect to this action. Counsel requested me to prepare an analysis of  
27 potential damages for the period June 10, 2011 through June 15, 2023 (the “Class Period”)  
28 and potential PAGA penalties in this case for the period April 22, 2014 through June 15, 2023

1 (the “PAGA Period”), resulting from unreimbursed cell phone expenses. Plaintiff has alleged  
2 that Crown Building Maintenance Co. (the “Company”) did not reimburse hourly employees  
3 performing janitorial work (“employees”) for all expenses for required cell phone use.

4 4. To perform this analysis, I have reviewed the following: six years of cell phone  
5 bills for Company-provided phones, including bills from carriers Verizon, Sprint, AT&T and  
6 T-Mobile; data on cell phone expenses reimbursed by the company; call logs and text logs  
7 provided by the carriers, along with related correspondence and data dictionaries; a 2017  
8 report from Phillips, Fractor & Company, LLC, regarding unreimbursed cell phone expenses  
9 in this matter (the “Phillips, Fractor Report”); deposition transcripts, including those for  
10 Company-designated witnesses Aaron Corrales and Adam Houdashell; and volumes of call  
11 and text data that I understand are compilations from the PDF bills for Company-provided  
12 phones.

#### 13 14 *Summary of Approach and Findings*

15 5. To identify, quantify and assign a value to potential unreimbursed cell phone  
16 expenses and the resulting Class Period damages and potential PAGA penalties, I analyzed  
17 data from a four-year period to uncover all interactions between Company-provided phones  
18 and employees’ cell phones. After deducting instances where the Company reimbursed  
19 employees for their cell phone expenses, I calculated the percentage of employees who used  
20 their cell phones for work (or at least for contact with a Company-provided phone) and were  
21 not reimbursed. I then applied the percentage of employees with unreimbursed cell phone use  
22 to the PAGA period in order to calculate the associated damages and potential penalties. For  
23 the pre-COVID period through March 2022, I found that in an average month 26.4% of  
24 employees used cell phones to interact with Company-provided phones without  
25 reimbursement; for the period starting in April 2020, that figure was 24.1%. Applying a  
26 reasonable percentage of the employee’s cell phone bill, I calculated \$432,187 in  
27 unreimbursed cell phone expenditures and \$277,299 in prejudgment interest, for total class  
28 damages of \$709,486. If PAGA penalties were equal to unreimbursed cell phone

1 expenditures plus prejudgment interest in the PAGA period, the PAGA penalties would equal  
2 \$415,178. If PAGA penalties were instead calculated at a rate of \$100 per pay period, once  
3 per month as cell phone bills were paid, they could be \$17,691,950. Finally, if the PAGA  
4 penalties were calculated at a rate of \$100 for each pay period in which employees used cell  
5 phones to interact with Company-provided phones without reimbursement, they could be as  
6 high as \$35,383,900. My analyses are discussed in more detail below.

### 7 8 *Analysis of Potential Class Damages*

9 6. The first step in identifying interactions between Company-provided phones  
10 and employee cell phones was to identify all employee cell phone numbers. I received a file  
11 containing a list of 19,090 potential class members for the *Garibay* class,<sup>1</sup> along with  
12 information such as Employee ID numbers, address information, dates of hire and  
13 termination, and twelve phone number fields: (1) home phone 1, (2) home phone 2, (3) home  
14 phone 3, (4) home office phone, (5) cell phone, (6) personal cell phone 1, (7) personal cell  
15 phone 2, (8) work cell phone, (9) work phone 1, (10) work phone 2, (11) other phone 1 and  
16 (12) other phone 2.<sup>2</sup> The data included a total of 19,560 unique phone numbers.

17 7. To identify employees' cell phone numbers, I compiled the four phone  
18 numbers described as cell phones: cell phone, personal cell phone 1, personal cell phone 2 and  
19 work cell phone. This yielded 8,502 unique cell phone numbers. Next, I used the volumes of  
20 Company call and text data to identify every phone number that sent a text message to a  
21 Company-provided phone. Cross-referencing to the list of all 19,560 employee phone  
22 numbers, I identified 674 employee cell phone numbers that sent a text message to a  
23 Company-provided phone. Similarly, I identified every phone number that received more  
24 than one text message from a Company-provided phone and identified 531 employee cell  
25 phone numbers.<sup>3</sup> Finally, I found and removed 71 cell phone numbers for Company-provided

26 <sup>1</sup> See, *Gama v. Able Services, et al.*, 2015, No. RG15773582 ("*Garibay*").

27 <sup>2</sup> Source: CROWN-ABLE003943.

28 <sup>3</sup> I use the criteria of receiving more than one text message from a Company-provided phone to avoid including home (or non-cellular) phone numbers that may have mistakenly been sent a text message from a Company-provided phone.

1 phones. After removing duplicates, I had a list of 8,785 unique employee cell phone numbers.

2 8. As mentioned above, the Company has produced volumes of cell phone bills  
3 and data files containing call and text logs from their carriers, all for Company-provided  
4 phones and devices. The call logs and billing detail include information such as the date of  
5 the call, the Company phone number, the number on the other end of the call, an identifier as  
6 to whether the call was incoming to the Company phone or outgoing from the Company  
7 phone and the duration of the call. The data from the carriers is quite voluminous; the call  
8 data in the billing detail from Verizon, which was the carrier for the majority of the Company-  
9 provided phones, comprised 28 files and nearly 26 million records for the period January 2016  
10 through March 2022.<sup>4</sup> Text logs contained similar information as the call logs, including the  
11 date, Company phone number, the number (or numbers, in the case of MMS text messages)  
12 on the other end of the text and an identifier as to which direction the text message traveled.  
13 Verizon provided this data in hundreds of files, though there were fewer records,  
14 approximately 500,000 text messages.<sup>5</sup> After checking the accuracy of the data files created  
15 from the PDF billing detail, I imported and aggregated the call and text data in CROWN-  
16 ABLE005141 and the Verizon text logs in CROWN-ABLE005138 into a database, and  
17 following the process described above flagged all of the interactions between Company-  
18 provided phones and employees' cell phones.

19 9. Although the call and text logs were voluminous, there were gaps to account  
20 for in my analysis. For example, I received AT&T text logs for the period April 2014 through  
21 March 2022, but the AT&T phone logs end in April 2016. The Verizon call logs date back to  
22 2016, but the PAGA period begins in April 2014. Verizon text logs span December 2021 to  
23 December 2022, and I did not receive any Sprint text logs. Thus, I performed an analysis of  
24 the period January 2018 through January 2022, where the data appears to be most complete, to  
25 estimate the percentage of employees who used personal cell phones to interact with  
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27 <sup>4</sup> See, CROWN-ABLE005141, files with "verizon\_calls" and a date in the filename.

28 <sup>5</sup> See, CROWN-ABLE005138.

Company-provided phones and were not reimbursed.<sup>6</sup> Specifically, I calculated, on a monthly basis, (1) the number of employees whose cell numbers were in Verizon call logs for Company-provided phones; (2) the number of employees whose cell numbers were in T-Mobile call or text logs; (3) the number of employees whose cell numbers were in Sprint call logs for Company-provided phones; (4) the number of employees whose cell numbers were in AT&T text logs for Company-provided phones; and (5) the number of unique employees reflected in (1)-(4) above. Table 1, below, contains a snapshot of these calculations.<sup>7</sup>

**Table 1**

| Month  | Employees in<br>Verizon Call Logs | Employees in<br>T-Mobile Call<br>and Text Logs | Employees in<br>Sprint Call Logs | Employees in<br>AT&T Text Logs | Unique<br>Employees |
|--------|-----------------------------------|------------------------------------------------|----------------------------------|--------------------------------|---------------------|
| Jan-18 | 1,583                             | 0                                              | 11                               | 19                             | 1,587               |
| Feb-18 | 1,507                             | 0                                              | 13                               | 27                             | 1,517               |
| Mar-18 | 1,558                             | 0                                              | 16                               | 17                             | 1,564               |
| Apr-18 | 1,525                             | 0                                              | 17                               | 19                             | 1,532               |
| May-18 | 1,514                             | 0                                              | 6                                | 27                             | 1,522               |
| Jun-18 | 1,500                             | 0                                              | 3                                | 24                             | 1,509               |
| Jul-18 | 1,507                             | 0                                              | 0                                | 28                             | 1,519               |
| Aug-18 | 1,487                             | 0                                              | 0                                | 24                             | 1,496               |
| Sep-18 | 1,439                             | 0                                              | 1                                | 31                             | 1,449               |
| Oct-18 | 1,455                             | 0                                              | 1                                | 34                             | 1,469               |
| Nov-18 | 1,416                             | 0                                              | 1                                | 35                             | 1,429               |
| Dec-18 | 1,432                             | 0                                              | 1                                | 37                             | 1,444               |

10. Next, in order to account for missing Verizon and Sprint text log data and AT&T call log data, I performed an analysis of the overlap between call and text interactions to determine whether employees whose cell phone interacted with a Company-provided phone via call also interacted via text message, or if more communication occurred via one mode or the other. To perform this analysis, I used nine months of T-Mobile call and text logs and two months of Verizon call and text logs where the call and text records overlap. As shown in Table 2 below, the vast majority of interactions between Company-provided phones and

<sup>6</sup> For context, I have compared the volume of data that I analyzed to the size of the sample of data reviewed by Phillips, Fractor & Company, LLC, in their 2017 report. The sample analyzed in that report spanned 14 weeks of data and 525 employees. The data on which I base my calculations spans 4 years (more than 200 workweeks) and contains calls and/or text messages to more than 5,300 employees, a far larger dataset to analyze.

<sup>7</sup> T-Mobile became a carrier for the Company in December 2020, hence the values of zero in the column for T-Mobile data.

1 employee cell phones were via phone calls; in an average month, 98.5% of the employees  
2 whose cell phone interacted with a Company-provided phone did so via call. Thus, the  
3 absence of certain text log data was not a significant deterrent to arriving at a reasonable  
4 estimate of the proportion of employees who interacted via cell phone with a Company-  
5 provided phone; to fill in missing text log data, I add 1.51% to the number of employees  
6 identified in call log data.<sup>8</sup> Conversely, to account for AT&T call log data, I multiply the  
7 number of employees identified in AT&T text log data by a factor of 9.39.<sup>9</sup>

27 <sup>8</sup>  $1.51\% = 1 \div 98.5\% - 1$ .

28 <sup>9</sup>  $9.39 = 1 \div 10.6\%$ .

**Table 2**

| <b>T-Mobile</b> |                  |                   |                             |                            |                            |
|-----------------|------------------|-------------------|-----------------------------|----------------------------|----------------------------|
| <b>Month</b>    | <b>Text Only</b> | <b>Calls Only</b> | <b>Both Texts and Calls</b> | <b>Calls as % of Total</b> | <b>Texts as % of Total</b> |
| Dec-20          | 0                | 4                 | 1                           | 100%                       | 20%                        |
| Jan-21          | 1                | 46                | 18                          | 98%                        | 29%                        |
| Feb-21          | 3                | 67                | 17                          | 97%                        | 23%                        |
| Mar-21          | 1                | 83                | 5                           | 99%                        | 7%                         |
| Sep-21          | 6                | 45                | 8                           | 90%                        | 24%                        |
| Oct-21          | 1                | 75                | 5                           | 99%                        | 7%                         |
| Nov-21          | 0                | 77                | 4                           | 100%                       | 5%                         |
| Dec-21          | 3                | 67                | 11                          | 96%                        | 17%                        |
| Jan-22          | 5                | 71                | 5                           | 94%                        | 12%                        |
| <b>TOTAL</b>    | <b>20</b>        | <b>535</b>        | <b>74</b>                   | <b>97%</b>                 | <b>15%</b>                 |
| <b>Verizon</b>  |                  |                   |                             |                            |                            |
| <b>Month</b>    | <b>Text Only</b> | <b>Calls Only</b> | <b>Both Texts and Calls</b> | <b>Calls as % of Total</b> | <b>Texts as % of Total</b> |
| Jan-22          | 13               | 1,093             | 107                         | 99%                        | 10%                        |
| Feb-22          | 11               | 1,008             | 89                          | 99%                        | 9%                         |
| <b>TOTAL</b>    | <b>24</b>        | <b>2,101</b>      | <b>196</b>                  | <b>99%</b>                 | <b>9%</b>                  |
| <b>Combined</b> |                  |                   |                             |                            |                            |
| <b>Month</b>    | <b>Text Only</b> | <b>Calls Only</b> | <b>Both Texts and Calls</b> | <b>Calls as % of Total</b> | <b>Texts as % of Total</b> |
| <b>TOTAL</b>    | <b>44</b>        | <b>2,636</b>      | <b>270</b>                  | <b>98.5%</b>               | <b>10.6%</b>               |

11. After adjusting for gaps in the data, I next deducted employees who received cell phone reimbursement from the Company, which ranged from 37 to 58 employees per month in the file that I reviewed.<sup>10</sup> I then calculated the number and proportion of employees who interacted via cell phone with a Company-provided phone and did not receive reimbursement. To account for changes in the industry due to COVID-19 and the sudden shift away from office buildings, I have calculated separate rates for the period through March 2020 and the period beginning April 2020. As shown in Table 3 below, in an average month

<sup>10</sup> See CROWN-ABLE005130. Reimbursements appear to be missing for the period October – December 2018.

1 through March 2020, 26.4% of employees in the putative class interacted via cell phone with a  
2 Company-provided phone and did not receive reimbursement for cell phone expenses; in the  
3 period starting in April 2020, that figure has been 24.1%.<sup>11</sup>  
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27 <sup>11</sup> Due to gaps in the call log data, I have excluded September and October 2019 and April  
28 through August 2021 in the calculations of these proportions.

**Table 3**

| <b>Month</b>                    | <b>Garibay Class Employees</b> | <b>Estimated Total Unreimbursed Cell Contacts</b> | <b>Unreimbursed Cell Contacts as % of Class Employees</b> |
|---------------------------------|--------------------------------|---------------------------------------------------|-----------------------------------------------------------|
| Jan-18                          | 6,301                          | 1,593                                             | 25.3%                                                     |
| Feb-18                          | 6,339                          | 1,561                                             | 24.6%                                                     |
| Mar-18                          | 6,299                          | 1,571                                             | 24.9%                                                     |
| Apr-18                          | 5,853                          | 1,557                                             | 26.6%                                                     |
| May-18                          | 5,842                          | 1,572                                             | 26.9%                                                     |
| Jun-18                          | 5,821                          | 1,570                                             | 27.0%                                                     |
| Jul-18                          | 5,857                          | 1,606                                             | 27.4%                                                     |
| Aug-18                          | 5,886                          | 1,552                                             | 26.4%                                                     |
| Sep-18                          | 5,902                          | 1,514                                             | 25.7%                                                     |
| Oct-18                          | 5,825                          | 1,609                                             | 27.6%                                                     |
| Nov-18                          | 5,851                          | 1,559                                             | 26.6%                                                     |
| Dec-18                          | 5,785                          | 1,557                                             | 26.9%                                                     |
| Jan-19                          | 5,878                          | 1,594                                             | 27.1%                                                     |
| Feb-19                          | 5,888                          | 1,519                                             | 25.8%                                                     |
| Mar-19                          | 5,802                          | 1,563                                             | 26.9%                                                     |
| Apr-19                          | 5,916                          | 1,583                                             | 26.8%                                                     |
| May-19                          | 5,951                          | 1,565                                             | 26.3%                                                     |
| Jun-19                          | 5,917                          | 1,551                                             | 26.2%                                                     |
| Jul-19                          | 5,903                          | 1,626                                             | 27.5%                                                     |
| Aug-19                          | 5,943                          | 1,495                                             | 25.2%                                                     |
| Nov-19                          | 5,895                          | 1,512                                             | 25.6%                                                     |
| Dec-19                          | 5,983                          | 1,532                                             | 25.6%                                                     |
| Jan-20                          | 5,892                          | 1,626                                             | 27.6%                                                     |
| Feb-20                          | 5,929                          | 1,528                                             | 25.8%                                                     |
| Mar-20                          | 5,968                          | 1,623                                             | 27.2%                                                     |
| Apr-20                          | 5,955                          | 1,401                                             | 23.5%                                                     |
| May-20                          | 5,703                          | 1,286                                             | 22.5%                                                     |
| Jun-20                          | 5,745                          | 1,429                                             | 24.9%                                                     |
| Jul-20                          | 5,765                          | 1,429                                             | 24.8%                                                     |
| Aug-20                          | 5,775                          | 1,357                                             | 23.5%                                                     |
| Sep-20                          | 5,771                          | 1,304                                             | 22.6%                                                     |
| Oct-20                          | 5,600                          | 1,304                                             | 23.3%                                                     |
| Nov-20                          | 5,531                          | 1,306                                             | 23.6%                                                     |
| Dec-20                          | 5,508                          | 1,376                                             | 25.0%                                                     |
| Jan-21                          | 5,476                          | 1,357                                             | 24.8%                                                     |
| Feb-21                          | 5,421                          | 1,250                                             | 23.1%                                                     |
| Mar-21                          | 5,406                          | 1,255                                             | 23.2%                                                     |
| Sep-21                          | 5,362                          | 1,309                                             | 24.4%                                                     |
| Oct-21                          | 5,402                          | 1,301                                             | 24.1%                                                     |
| Nov-21                          | 5,380                          | 1,338                                             | 24.9%                                                     |
| Dec-21                          | 5,377                          | 1,357                                             | 25.2%                                                     |
| Jan-22                          | 5,311                          | 1,378                                             | 25.9%                                                     |
| <b>Pre-Covid Average:</b>       |                                |                                                   | <b>26.4%</b>                                              |
| <b>Average from April 2020:</b> |                                |                                                   | <b>24.1%</b>                                              |

12. Next, I calculated an adjustment from the class in the *Garibay* matter to the class in the *Uribe* matter, because the class list and call log were for the class in *Garibay*. It is

my understanding based on conversations with counsel that the class in *Garibay* is a subset of the class in *Uribe*. The 2017 Phillips, Fractor Report notes an average of 7,490 employees in the *Uribe* class per workweek during the period June 10, 2011 through April 30, 2017.<sup>12</sup> Using the *Garibay* class list, I have calculated an average of 6,290 employees per pay period during the period April 22, 2014 through April 30, 2017. To scale my calculations from the *Garibay* class to the larger *Uribe* class, I have applied a ratio of 1.19 to the number of active employees in each pay period and month. Table 4 shows the calculation of this ratio.

**Table 4**

|                                                                                         |       |
|-----------------------------------------------------------------------------------------|-------|
| Average active employees per workweek in <i>Uribe</i> class, 4/10/2011 - 4/30/2017:     | 7,490 |
| Average active employees per pay period in <i>Garibay</i> class, 4/22/2014 - 4/30/2017: | 6,290 |
| Ratio of <i>Uribe</i> class to <i>Garibay</i> class:                                    | 1.19  |

13. Applying the 26.4% figure from Table 3 to 806,493 months worked by *Uribe* class members during the Class Period through March 2020, and applying the 24.1% figure from Table 3 to the 245,670 months worked starting April 2020, I estimate a total of 271,945 months of unreimbursed cell phone expenses when employees interacted via cell phone with Company-provided phones.<sup>13</sup>

14. I offer no opinion about whether any or all of these interactions via cell phone were required for work; it is my understanding that the Company has argued that a cell phone is not required to perform the duties of a janitor. One note from the data: I found more than 100,000 calls between employee cell phones and Company-provided phones that occurred after employees' respective termination dates, suggesting that at least some of the interactions via cell phone may have been personal in nature instead of mandated for work.

15. Furthermore, call minutes and text messages with Company phones were

<sup>12</sup> See, Phillips, Fractor Report, p. 2.

<sup>13</sup>  $26.4\% \times 446,914 + 24.1\% \times 191,443 = 164,007$ .

1 distributed quite unevenly among employees' cell phones; the top 1% of employee/months  
2 accounted for more than 25% of all call minutes between Company-provided phones and  
3 employee cell phones, and more than 23% of employee/months where employees had cell  
4 phone calls with Company-provided phones had less than five minutes of call time. Similarly,  
5 the top 1% of employee/months accounted for nearly 20% of all text messages between  
6 Company-provided phones and employee cell phones, and more than 22% of  
7 employee/months with text messages between Company-provided phones and employee cell  
8 phones had no more than two text messages. This uneven distribution of interactions between  
9 Company-provided phones and employee cell phones is consistent with the notion that  
10 personal cell phones were not necessary for employees to perform their duties.

11 16. Finally, I understand that the parties dispute whether employees required  
12 personal cell phones in order to call into the IVR timekeeping system, particularly beginning  
13 in 2018. From 2018 through 2021, the call logs for Company-provided phones show more  
14 than one million calls per year to the phone numbers associated with the IVR system, which is  
15 consistent with Defendant's argument that personal cell phones were mandatory for  
16 employees to perform their work duties.

17 17. Nevertheless, I have assumed that all of the instances when employees  
18 interacted via cell phone with a Company-provided phone were required by work and thus  
19 required to be reimbursed. Following this assumption, I have estimated a "reasonable  
20 percentage of the employee's cell phone bill," or the amount the Company failed to reimburse  
21 to employees.<sup>14</sup> I began by compiling prices for unlimited data plans from the three major  
22 carriers, Verizon, AT&T and T-Mobile. Cheaper unlimited data plans are available through  
23 Mobile Virtual Network Operators like Boost Mobile and Mint Mobile, which operate on the  
24 networks of the three major carriers, but I have focused on the major carriers, consistent with  
25 the Company's choice of carriers for Company-provided phones, as an upper-bound on the  
26 average cost of a wireless data plan.<sup>15</sup> As shown in Table 5, the average monthly price for a

27 <sup>14</sup> See, *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (Cal. Ct. App. 2014).

28 <sup>15</sup> See, see <https://www.moneysavingpro.com/plans/unlimited-data-plans/>.

single line on an unlimited data plan from the three major carriers is \$76.30.<sup>16</sup>

**Table 5**

| Carrier        | Plan              | Price per Line |
|----------------|-------------------|----------------|
| Verizon        | 5G Get More       | \$86.00        |
| Verizon        | 5G Play More      | \$76.00        |
| Verizon        | 5G Do More        | \$76.00        |
| Verizon        | 5G Start          | \$70.00        |
| T-Mobile       | Magenta MAX       | \$90.00        |
| T-Mobile       | Magenta           | \$75.00        |
| T-Mobile       | Essentials        | \$65.00        |
| AT&T           | Unlimited Premium | \$85.00        |
| AT&T           | Unlimited Extra   | \$75.00        |
| AT&T           | Unlimited Starter | \$65.00        |
| <b>AVERAGE</b> |                   | <b>\$76.30</b> |

18. Next, I calculated from the call and text log data that employees spent on average 40.3 minutes per month on calls with Company-provided phones and exchanged 34.7 text messages with Company-provided phones per month. Assuming each text message sent or received represented one minute of phone usage, this implies employees spent 75 minutes per month interacting via cell phone with Company-provided phones. By comparison, two recent surveys have indicated that adult Americans use their smartphones, on average, two hours and fifty-four minutes per day<sup>17</sup> and more than four hours per day.<sup>18</sup> Assuming employees used their phones less than the average American, at two hours per day, the 75 minutes of interaction with Company-provided phones represents 2.08% of employees' monthly cell phone use. Multiplying the 2.08% by the \$76.30 average cost of an unlimited data plan, this means employees who interacted via cell phone with a Company-provided phone and did not receive reimbursement for cell phone expenses should have been reimbursed at a rate of \$1.59 per month. Summing across the Class Period, this results in potential damages of \$432,187. Prejudgment interest at a simple rate of 10% per annum

<sup>16</sup> Sources: <https://www.verizon.com/plans/unlimited/>; <https://www.t-mobile.com/cell-phone-plans?INTNAV=tNav:Plans>; <https://www.att.com/plans/wireless/>.

<sup>17</sup> Source: <https://www.reviews.org/mobile/cell-phone-addiction/>.

<sup>18</sup> Source: <https://www.statista.com/statistics/1224510/time-spent-per-day-on-smartphone-us/>.

1 would be \$277,299, resulting in a potential total damage figure of \$709,486.<sup>19</sup>

2 19. I also prepared an alternative estimate of the percentage of employees who  
3 interacted via cell phone with a Company-provided phone and did not receive reimbursement  
4 for cell phone expenses. In the calculations discussed above, I have assumed that the 8,785  
5 employee cell phone numbers that I compiled represented all of the cell numbers from which  
6 employees interacted with Company-provided phones. As a result, if an employee either (1)  
7 does not have a cell number listed, or (2) if their cell number(s) do not appear in the Company  
8 phone call logs and text logs, I have assumed the employee did not interact via cell phone  
9 with Company-provided phones. If, however, employees have other cell phone numbers  
10 beyond those included in the class list, and if those employees interacted via those cell phones  
11 with Company-provided phones, then my calculations have underestimated the proportion of  
12 employees who interacted via cell phone with a Company-provided phone and did not receive  
13 reimbursement for cell phone expenses. Thus, in my alternative estimate, rather than using all  
14 active employees for a given month in the denominator of my calculation, I only use active  
15 employees for a given month whose cell numbers are known for certain because they  
16 interacted with Company-provided phones.

17 20. As shown in Table 6, this results in a higher estimate of the proportion of  
18 employees who interacted via cell phone with a Company-provided phone and did not receive  
19 reimbursement for cell phone expenses; through March 2020, this figure is 54.5% (compared  
20 to 26.4% in my original calculation), and for the period beginning April 2020 the figure is  
21 52.0% (compared to 24.1%).<sup>20</sup>

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26 <sup>19</sup> I have used 10% prejudgment interest as though the unreimbursed cell expenses represented  
27 wages, rather than the 7% prejudgment interest rate that could be applied for unpaid meal period  
28 and rest break premiums.

<sup>20</sup> As above, September and October 2019 and April through August 2021 are excluded from  
these proportion calculations.

**Table 6**

| <b>Month</b>                    | <b>Estimated Total<br/>Unreimbursed Cell<br/>Contacts</b> | <b>Employees in Class with<br/>Known Working Cell<br/>Numbers</b> | <b>Unreimbursed Cell<br/>Contacts as % of Class<br/>with Known Cell Num</b> |
|---------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Jan-18                          | 1,593                                                     | 3,098                                                             | 51.4%                                                                       |
| Feb-18                          | 1,561                                                     | 3,090                                                             | 50.5%                                                                       |
| Mar-18                          | 1,571                                                     | 3,075                                                             | 51.1%                                                                       |
| Apr-18                          | 1,557                                                     | 2,935                                                             | 53.0%                                                                       |
| May-18                          | 1,572                                                     | 2,915                                                             | 53.9%                                                                       |
| Jun-18                          | 1,570                                                     | 2,907                                                             | 54.0%                                                                       |
| Jul-18                          | 1,606                                                     | 2,913                                                             | 55.1%                                                                       |
| Aug-18                          | 1,552                                                     | 2,905                                                             | 53.4%                                                                       |
| Sep-18                          | 1,514                                                     | 2,904                                                             | 52.1%                                                                       |
| Oct-18                          | 1,609                                                     | 2,846                                                             | 56.5%                                                                       |
| Nov-18                          | 1,559                                                     | 2,859                                                             | 54.5%                                                                       |
| Dec-18                          | 1,557                                                     | 2,847                                                             | 54.7%                                                                       |
| Jan-19                          | 1,594                                                     | 2,893                                                             | 55.1%                                                                       |
| Feb-19                          | 1,519                                                     | 2,877                                                             | 52.8%                                                                       |
| Mar-19                          | 1,563                                                     | 2,859                                                             | 54.7%                                                                       |
| Apr-19                          | 1,583                                                     | 2,881                                                             | 54.9%                                                                       |
| May-19                          | 1,565                                                     | 2,866                                                             | 54.6%                                                                       |
| Jun-19                          | 1,551                                                     | 2,832                                                             | 54.8%                                                                       |
| Jul-19                          | 1,626                                                     | 2,799                                                             | 58.1%                                                                       |
| Aug-19                          | 1,495                                                     | 2,808                                                             | 53.2%                                                                       |
| Nov-19                          | 1,512                                                     | 2,740                                                             | 55.2%                                                                       |
| Dec-19                          | 1,532                                                     | 2,764                                                             | 55.4%                                                                       |
| Jan-20                          | 1,626                                                     | 2,746                                                             | 59.2%                                                                       |
| Feb-20                          | 1,528                                                     | 2,735                                                             | 55.9%                                                                       |
| Mar-20                          | 1,623                                                     | 2,735                                                             | 59.3%                                                                       |
| Apr-20                          | 1,401                                                     | 2,728                                                             | 51.4%                                                                       |
| May-20                          | 1,286                                                     | 2,649                                                             | 48.5%                                                                       |
| Jun-20                          | 1,429                                                     | 2,655                                                             | 53.8%                                                                       |
| Jul-20                          | 1,429                                                     | 2,661                                                             | 53.7%                                                                       |
| Aug-20                          | 1,357                                                     | 2,668                                                             | 50.9%                                                                       |
| Sep-20                          | 1,304                                                     | 2,662                                                             | 49.0%                                                                       |
| Oct-20                          | 1,304                                                     | 2,617                                                             | 49.8%                                                                       |
| Nov-20                          | 1,306                                                     | 2,599                                                             | 50.3%                                                                       |
| Dec-20                          | 1,376                                                     | 2,583                                                             | 53.3%                                                                       |
| Jan-21                          | 1,357                                                     | 2,572                                                             | 52.8%                                                                       |
| Feb-21                          | 1,250                                                     | 2,541                                                             | 49.2%                                                                       |
| Mar-21                          | 1,255                                                     | 2,529                                                             | 49.6%                                                                       |
| Sep-21                          | 1,309                                                     | 2,472                                                             | 53.0%                                                                       |
| Oct-21                          | 1,301                                                     | 2,478                                                             | 52.5%                                                                       |
| Nov-21                          | 1,338                                                     | 2,465                                                             | 54.3%                                                                       |
| Dec-21                          | 1,357                                                     | 2,457                                                             | 55.2%                                                                       |
| Jan-22                          | 1,378                                                     | 2,414                                                             | 57.1%                                                                       |
| <b>Pre-Covid Average:</b>       |                                                           |                                                                   | <b>54.5%</b>                                                                |
| <b>Average from April 2020:</b> |                                                           |                                                                   | <b>52.0%</b>                                                                |

21. Using these higher estimates of the proportion of employees who interacted via cell phone with a Company-provided phone without reimbursement, I applied the same

calculation of a reasonable percentage of the employee's cell phone bill to quantify potential damages. Summing across the class period, this results in unreimbursed cell phone expenses of \$902,244. Prejudgment interest at a simple rate of 10% per annum would be \$574,704, for a total damage figure of \$1,476,978.

22. Finally, I have calculated adjustments to my calculations of potential damages based on different assumptions about the proportion of employee cell phone communications with Company-provided phones that were mandatory for work. For example, if 10% of employee cell phone communications with Company-provided phones were personal or otherwise not mandatory for work, then the total unreimbursed reasonable proportion of cell phone expenses is reduced from \$432,187 to \$388,968. Table 7 summarizes these calculations.

**Table 7**

| <b><i>Original Scenario</i></b>                                                                           |                                                                  |                             |                                    |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------|------------------------------------|
| <b>Assumed Proportion of Cell Interactions That Were Mandatory for Work</b>                               | <b>Unreimbursed Reasonable Proportion of Cell Phone Expenses</b> | <b>Prejudgment Interest</b> | <b>Total Damages with Interest</b> |
| 100%                                                                                                      | \$432,187                                                        | \$277,299                   | \$709,486                          |
| 90%                                                                                                       | \$388,968                                                        | \$249,569                   | \$638,537                          |
| 75%                                                                                                       | \$324,140                                                        | \$207,974                   | \$532,114                          |
| 50%                                                                                                       | \$216,093                                                        | \$138,650                   | \$354,743                          |
| 25%                                                                                                       | \$108,047                                                        | \$69,325                    | \$177,371                          |
| 10%                                                                                                       | \$43,219                                                         | \$27,730                    | \$70,949                           |
| <b><i>Alternative Scenario - using only cell numbers that interacted with Company-provided phones</i></b> |                                                                  |                             |                                    |
| <b>Assumed Proportion of Cell Interactions That Were Mandatory for Work</b>                               | <b>Unreimbursed Reasonable Proportion of Cell Phone Expenses</b> | <b>Prejudgment Interest</b> | <b>Total Damages with Interest</b> |
| 100%                                                                                                      | \$902,244                                                        | \$574,704                   | \$1,476,948                        |
| 90%                                                                                                       | \$812,019                                                        | \$517,234                   | \$1,329,253                        |
| 75%                                                                                                       | \$676,683                                                        | \$431,028                   | \$1,107,711                        |
| 50%                                                                                                       | \$451,122                                                        | \$287,352                   | \$738,474                          |
| 25%                                                                                                       | \$225,561                                                        | \$143,676                   | \$369,237                          |
| 10%                                                                                                       | \$90,224                                                         | \$57,470                    | \$147,695                          |

***Potential PAGA Penalties***

23. To estimate potential PAGA penalties due to unreimbursed cell phone

expenses, I followed the same steps as in the damages analysis above, but on a pay period-by-pay period basis rather than a monthly basis. To illustrate, Table 8 contains the same analysis as Table 1 above, but on a pay period basis:

**Table 8**

| Pay Period<br>End | Employees in<br>Verizon Call Logs | Employees in<br>T-Mobile Call<br>and Text Logs | Employees in<br>Sprint Call Logs | Employees in<br>AT&T Text Logs | Unique<br>Employees |
|-------------------|-----------------------------------|------------------------------------------------|----------------------------------|--------------------------------|---------------------|
| 1/15/2018         | 1,407                             | 0                                              | 10                               | 10                             | 1,409               |
| 1/31/2018         | 1,456                             | 0                                              | 12                               | 16                             | 1,469               |
| 2/15/2018         | 1,424                             | 0                                              | 11                               | 17                             | 1,434               |
| 2/28/2018         | 1,320                             | 0                                              | 14                               | 18                             | 1,331               |
| 3/15/2018         | 1,424                             | 0                                              | 16                               | 13                             | 1,430               |
| 3/31/2018         | 1,425                             | 0                                              | 16                               | 14                             | 1,441               |
| 4/15/2018         | 1,365                             | 0                                              | 16                               | 16                             | 1,374               |
| 4/30/2018         | 1,393                             | 0                                              | 11                               | 17                             | 1,404               |
| 5/15/2018         | 1,390                             | 0                                              | 6                                | 19                             | 1,397               |
| 5/31/2018         | 1,388                             | 0                                              | 7                                | 20                             | 1,399               |
| 6/15/2018         | 1,381                             | 0                                              | 3                                | 15                             | 1,391               |
| 6/30/2018         | 1,344                             | 0                                              | 0                                | 20                             | 1,355               |
| 7/15/2018         | 1,330                             | 0                                              | 1                                | 24                             | 1,344               |
| 7/31/2018         | 1,402                             | 0                                              | 0                                | 16                             | 1,408               |
| 8/15/2018         | 1,336                             | 0                                              | 1                                | 17                             | 1,348               |
| 8/31/2018         | 1,381                             | 0                                              | 1                                | 23                             | 1,393               |
| 9/15/2018         | 1,299                             | 0                                              | 1                                | 25                             | 1,311               |
| 9/30/2018         | 1,318                             | 0                                              | 1                                | 26                             | 1,331               |
| 10/15/2018        | 1,332                             | 0                                              | 1                                | 27                             | 1,349               |
| 10/31/2018        | 1,350                             | 0                                              | 3                                | 25                             | 1,361               |
| 11/15/2018        | 1,306                             | 0                                              | 3                                | 30                             | 1,326               |
| 11/30/2018        | 1,253                             | 0                                              | 1                                | 33                             | 1,273               |
| 12/15/2018        | 1,292                             | 0                                              | 2                                | 23                             | 1,307               |
| 12/31/2018        | 1,326                             | 0                                              | 1                                | 33                             | 1,342               |

24. Following the process described above, I found that in an average pay period through March 2020, 23.2% of employees in the putative class interacted via cell phone with a Company-provided phone and did not receive reimbursement for cell phone expenses. That figure was 20.6% in the period beginning April 2020. As with the calculation of potential Class damages, I also calculated an alternative proportion of employees in the putative class with unreimbursed cell phone expenses including in the denominator of my calculation only the active employees in a given month whose cell numbers are known for certain because they interacted with Company-provided phones. In this alternative scenario, 47.7% of employees interacted via cell phone with a Company-provided phone and did not receive reimbursement

1 for cell phone expenses through March 2020; in the period beginning April 2020, that figure  
2 was 44.3%.

3 25. After scaling from the *Garibay* class to the *Uribe* class as described in the  
4 discussion of potential Class damages, I applied the 23.2% figure to 1,044,052 pay periods  
5 worked by *Uribe* class members during the PAGA period through March 2020 and applied  
6 the 20.6% figure to 482,512 pay periods starting in April 2020, resulting in an estimate of  
7 341,363 pay periods with unreimbursed cell phone expenses when the employee interacted via  
8 cell phone with a Company-provided phone.<sup>21</sup> If PAGA penalties were calculated using a  
9 reasonable proportion of cell phone expenses and prejudgment interest, similar to the Class  
10 damages discussed above, this would result in \$403,648 in penalties. Using the higher  
11 proportions from the alternative calculation would result in \$839,183 in penalties.

12 26. If PAGA penalties were calculated at \$100 per pay period when the employee  
13 interacted via cell phone with a Company-provided phone, up to one penalty per employee per  
14 month when wireless bills are paid, PAGA penalties would be \$17,691,950. If PAGA  
15 penalties were calculated at \$100 for every pay period with unreimbursed cell phone expenses  
16 when the employee interacted via cell phone with a Company-provided phone, PAGA  
17 penalties could total as much as \$35,383,900.

18 27. As with the Class damages discussed above, I also calculated adjustments to  
19 the calculations of potential PAGA penalties based on different assumptions about the  
20 proportion of employee cell phone communications with Company-provided phones that were  
21 mandatory for work. Table 9 summarizes all of these calculations of potential PAGA  
22 penalties.

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28 <sup>21</sup>  $23.2\% \times 1,044,052 + 20.6\% \times 482,512 = 341,363$ .

**Table 9*****Scenario 1: Penalties calculated similar to Class damages***

| <b>Assumed Proportion of Cell Interactions That<br/>Were Mandatory for Work</b> | <b>Total<br/>Penalties</b> |
|---------------------------------------------------------------------------------|----------------------------|
| 100%                                                                            | \$403,648                  |
| 90%                                                                             | \$363,283                  |
| 75%                                                                             | \$302,736                  |
| 50%                                                                             | \$201,824                  |
| 25%                                                                             | \$100,912                  |
| 10%                                                                             | \$40,365                   |

***Scenario 2: Penalties calculated similar to alternative scenario of Class damages***

| <b>Assumed Proportion of Cell Interactions That<br/>Were Mandatory for Work</b> | <b>Total<br/>Penalties</b> |
|---------------------------------------------------------------------------------|----------------------------|
| 100%                                                                            | \$839,183                  |
| 90%                                                                             | \$755,265                  |
| 75%                                                                             | \$629,387                  |
| 50%                                                                             | \$419,592                  |
| 25%                                                                             | \$209,796                  |
| 10%                                                                             | \$83,918                   |

***Scenario 3: Penalties calculated at \$100 per month when wireless bills paid***

| <b>Assumed Proportion of Cell Interactions That<br/>Were Mandatory for Work</b> | <b>Total<br/>Penalties</b> |
|---------------------------------------------------------------------------------|----------------------------|
| 100%                                                                            | \$17,068,150               |
| 90%                                                                             | \$15,361,335               |
| 75%                                                                             | \$12,801,113               |
| 50%                                                                             | \$8,534,075                |
| 25%                                                                             | \$4,267,038                |
| 10%                                                                             | \$1,706,815                |

***Scenario 4: Penalties calculated at \$100 per pay period when cell phones used***

| <b>Assumed Proportion of Cell Interactions That<br/>Were Mandatory for Work</b> | <b>Total<br/>Penalties</b> |
|---------------------------------------------------------------------------------|----------------------------|
| 100%                                                                            | \$34,136,300               |
| 90%                                                                             | \$30,722,670               |
| 75%                                                                             | \$25,602,225               |
| 50%                                                                             | \$17,068,150               |
| 25%                                                                             | \$8,534,075                |
| 10%                                                                             | \$3,413,630                |

1  
2  
3  
4 I declare under the penalty of perjury of the laws of the State of California that the  
5 foregoing is true and correct.

6 Executed on March 17, 2023.

7  
8 

JUSTIN REGUS, CFA

**JUSTIN REGUS, CFA, CFE***President*

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**Function and Specialization**

Provides economic and financial analysis of large databases to support clients involved in complex litigation.

**Professional Associations**

CFA Institute  
CFA Society of Los Angeles  
Association of Certified Fraud Examiners

**Languages**

English, French

**Education, Licenses & Certifications**

Bachelor of Arts in Economics, Claremont  
McKenna College  
Chartered Financial Analyst (CFA)  
Certified Fraud Examiner (CFE)

**Background**

Justin Regus is the President of Agility Economics, LLC, and a specialist in financial and economic analysis for parties in litigation, transactions, or other disruptive events. For more than 20 years he has supported clients involved in complex disputes, including both civil and criminal litigation.

His project experience includes disputes related to labor and employment issues, white collar fraud, insider trading, valuation, antitrust, commercial damages and intellectual property. He has been qualified as an expert and testified in deposition and at trial in the state of California. He has also presented at mediation and has supported numerous expert testimonies in state and federal courts.

Over the course of his career Justin has developed in-depth expertise in the application of statistical and econometric methodologies to issues of evaluating liability and damages, particularly in complex financial disputes, securities fraud cases and employment matters.

**Testimony Experience (Previous Four Years)**

- Declarations, Expert Report and Deposition Testimony in Juan Carlos Corral, et al., v. Staples the Office Superstore, LLC, et al., Case No. 2:22-cv-01254-MCS, in the United States District Court for the Central District of California; October – December 2022.
- Deposition Testimony in Commodity Futures Trading Commission vs. Christophe Rivoire, Civil Action No. 19-cv-11701 (JPO), in the United States District Court for the Southern District of New York; October 2022.
- Deposition Testimony in Badrudin Kurwa vs. Physician Associates of the Greater San Gabriel Valley, et al., Case No. KC045216, in the Superior Court of the State of California, County of Los Angeles; October 2022.
- Declaration in Lavell Robinson, et al., vs. Turning Point of Central California, Inc., a California Corporation, et al., Case No. 14CECG03685, in the Superior Court of California for the County of Fresno; July 2022.
- Declaration in Cheri-Lynn Wortham, Cristobal Hernandez, et al., vs. Turning Point of Central California, Inc., a California Corporation, et al., Case No. 15CECG02618, in the Superior Court of California for the County of Fresno; July 2022.
- Declarations in Donovin Last, et al., vs. M-I, LLC, et al., Case No. 1:20-cv-01205-DAD-BAK (EPG), in the United States District Court for the Eastern District of California; January – June 2022.
- Declaration in Donovin Last, et al., vs. M-I, LLC, et al., Case No. 2:22-MC-00020 JAK (MRWx), in the United States District Court for the Central District of California; February 2022.
- Deposition and Trial Testimony in 3H Investments, LLC, et al., vs. Kathleen Duncan et al., Judicate West Case No. A272208; September 2021.
- Expert Reports and Deposition Testimony in Mithril Capital Management LLC and Ajay Royan v. Crystal Scripps McKellar, AAA Case No. 01-20-0003-7422; June – August 2021.
- Expert Reports and Deposition Testimony in Steven Goldsmith, et al., v. Lee Enterprises Inc., et al., Case No. 4:19-CV-01772-MTS, in the United States District Court for the Eastern District of Missouri; December 2020 – March 2021.

- Declarations in National Urban League, Common Cause, League of Women Voters of the United States, et al., vs. Louis DeJoy and the United States Postal Service, Civ. No. 1:20-cv-2391-GLR; September – October 2020.
- Trial Testimony in State of California v. Presidio Performing Arts Foundation, Case No. CGC 13-534856, in the Superior Court of the State of California for the County of San Francisco; April 11-17, 2018.
- Expert Reports and Deposition Testimony in Emma Bradley, et al., v. The Hertz Corporation, Case No. 3:15-cv-00652-NJR-RJD, in United States District Court for the Southern District of Illinois; February 2018 – June 2019.

## **Representative Professional and Industry Experience**

### ***Employment Litigation***

- For a provider of in-home healthcare services, examined payroll, timecard, and route sheet records to evaluate claims by employee drivers related to missed meal and rest breaks, unpaid overtime and failure to pay minimum wage. Organized a team of temporary employees to create an electronic database representing a statistically-valid sample of paper records. Estimated client's exposure and assisted client in settling claims.
- For a laboratory facing discrimination charges, examined the effect of a reduction in force. Performed adverse impact analysis related to claims of gender, race and age discrimination, and critiqued the statistical analyses proposed by opposing expert. Deliverables included support of an expert report and deposition testimony.
- On behalf of a property management company, evaluated liability related to security guards' claims of racial discrimination in the promotion process, and calculated potential exposure. Work product included statistical analyses of hiring and promotion patterns and privileged consulting services.
- For a multinational corporation whose California location was subject to claims under the Private Attorneys General Act (PAGA), provided privileged exposure analysis related to missed or late meal breaks, unpaid overtime, and associated claims and penalties. Work product included a mediation brief that assisted the client in reaching a favorable settlement. Subsequently assisted with claims administration.
- On behalf of a real estate brokerage facing allegations that its agents had been misclassified as independent contractors, conducted analyses of commissions earned and expenses incurred relative to industry benchmarks. Work resulted in favorable settlement at mediation.
- For a customer relations management company, estimated exposure stemming from unpaid overtime in its call centers. Deliverables included privileged consulting that assisted client in arriving at a favorable settlement.

### ***Valuation***

- On behalf of a non-profit dance studio that had been displaced in an eminent domain action by the California Department of Transportation, provided deposition and trial testimony related to the quantification of lost goodwill caused by the taking. Work product included financial statement analysis, including discounted cash flow analysis, and resulted in a favorable jury verdict and a published opinion from the Court of Appeal.

- For an Indian tribe with a coal mine on its land, performed valuations and created scenario analysis to examine the tax benefits stemming from the potential repurchase of the mine. Work product included discounted cash flow analysis and consultation through due diligence and price negotiations and resulted in a purchase at an agreeable price.

#### ***Breach of Contract Disputes***

- On behalf of a provider of petroleum products involved in a dispute with former franchisees, performed statistical analyses of gasoline pricing and timing of gasoline deliveries to rebut plaintiffs' allegations. Work product included two declarations, deposition testimony and testimony at trial, and resulted in a favorable jury verdict.
- For an energy company involved in a dispute surrounding the shutdown of two electricity generating units, performed economic and financial analysis to support claims that the units had been damaged to the extent that repairs were not economically viable. Deliverables included support of testimony before regulatory authorities and resulted in a favorable finding for our client.

#### ***White Collar Fraud Investigations***

- For the Department of Justice, computed the gains a former Chief Executive Officer received from his trades based on insider information. Utilizing both event studies and buy-and-hold models, assessed short-term and long-run stock price reactions to measure the value of material information possessed by the CEO during the period of his trades.
- For numerous special committee investigations, performed statistical analyses to evaluate the probability that stock option backdating had occurred. Considered subsets of option grants, such as grants to executives and officers, non-standard grants, or all-employee focal grants. Assisted forensic investigators by identifying stock option grants most likely to have been backdated, and prepared audit committees and outside counsel with defense strategies.

#### ***Securities Litigation***

- In a bankruptcy case involving a creator of pharmaceutical products, considered the efficiency of the market for a lightly-traded stock and approximated the value of FDA approval. Analyses included event studies to isolate and quantify the effect of particular disclosures, correlation and regression analyses to examine market efficiency, and trader models to estimate the number of shares affected by alleged misrepresentations.
- In a class-action dispute regarding a health care provider, evaluated the trading records of opt-out plaintiffs and assisted client in settlement negotiations and mediation. Work product included event studies and trader models and resulted in the company reaching a favorable settlement with the investor class.