

Bryan J. Schwartz (SBN 209903)
Jennifer A. Reisch, Of Counsel (SBN 223671)
Samuel L. Goldsmith (SBN 320471)
BRYAN SCHWARTZ LAW
180 Grand Avenue, Suite 1380
Oakland, CA 94612
Tel: (510) 444-9300
Fax: (510) 444-9301
Email: bryan@bryanschwartzlaw.com
jennifer@bryanschwartzlaw.com
samuel@bryanschwartzlaw.com

Matthew C. Helland (SBN 250451)
NICHOLS KASTER LLP
235 Montgomery Street, Suite 810
San Francisco, CA 94104
Tel: (415) 277-7235
Fax: (415) 277-7238
Email: helland@nka.com

Robert L. Schug (SBN 249640)
Neil D. Pederson (MN Bar No. 0397628)*
NICHOLS KASTER LLP
4600 IDS Center, 80 S. 8th St.
Minneapolis, MN 55402
Tel: (612) 256-3200
Fax: (612) 338-4878
Email: schug@nka.com
npederson@nka.com
*pro hac vice application forthcoming

Attorneys for Plaintiff and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA – UNLIMITED JURISDICTION**

MICHAEL CUENCA, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

KAISER FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION
HOSPITALS, THE PERMANENTE
MEDICAL GROUP, INC., and
SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, and
DOES 1 through 50, inclusive,

Defendants.

Case No. RG20065123

**DECLARATION OF ALEXANDER
VEKKER, PhD**

Complaint Filed: June 17, 2020
Trial Date: None
Department: 19
Reservation #: R-2257806
Hearing Date: May 17, 2021 3:00pm

1 **I. QUALIFICATIONS, BACKGROUND, AND EXPERIENCE**

2 I am the founder and president of Vekker Consulting, LLC. I also teach economics and statistics
3 classes at the University of Pennsylvania. I received my Ph.D. in Economics from the University of
4 Pennsylvania in 2001. A copy of my curriculum vitae is attached as **Exhibit A**.

5
6 In the past nineteen years, I have been involved in a large number of cases, including individual
7 and class action matters. I have testified as an expert witness in federal and state courts. Among many
8 others, I was the testifying expert for the plaintiffs cited in *Borders, et al. v. Walmart Stores Inc.*, Case
9 No. 3:17-cv-00506 (S.D. Ill. 2019) (class action pregnancy discrimination case in which I served as an
10 expert on behalf of plaintiffs that subsequently settled); *Easterling v. State of Connecticut*, 783 F. Supp.
11 2d 323, 327 (D. Conn. 2011) (class action sex discrimination case in which I opined on disparities in test
12 outcomes); and *Taylor v. D.C. Water & Sewer Auth.*, 241 F.R.D. 33, 41 (D.D.C. 2007) (class action race
13 discrimination case in which I analyzed compensation differences between African American and white
14 employees). I also served as a consulting expert for the plaintiff in the gender discrimination case
15 captioned *Velez v. Novartis Pharm. Corp.*, which resulted in one of the largest jury verdicts in an
16 employment discrimination case to date.

17
18 **II. INVOLVEMENT IN THIS CASE**

19 I began consulting with Plaintiff's counsel in the above-referenced matter in February 2021, and
20 we have had dozens of exchanges in the last two months. I have also reviewed multiple data productions
21 by Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals ("Kaiser"). Prior to beginning to
22 work with Plaintiff's counsel, for over a year, I have been an expert in the *Stewart v. Kaiser et al.* matter.
23 In that matter, I have looked extensively at similar data records but focusing instead on the analysis of the
24 employment outcomes by race at the company. With that background, I was able to evaluate relatively
25 quickly the data needed by Plaintiff here to calculate an estimate of Kaiser's potential exposure for pay
26
27
28

1 and promotion disparities affecting Hispanic employees in the administrative, consulting, and information
2 technology job families.

3 **III. MY PRELIMINARY FINDINGS**

4 I reviewed the data produced by Kaiser containing dozens of fields for approximately 2,532
5 Hispanic employees, and approximately 6,085 non-Hispanic white employees. The provided information
6 included employees' base pay, incentive pay, and performance review ratings. The data fields included
7 among other things, employees' job families, functions, entities, start dates at the company, dates of birth,
8 departments, exempt/non-exempt status, locations, and salary grades.
9

10 Plaintiffs' counsel provided me a set of assumptions to use for my analyses. Based on these
11 assumptions, I conducted regression analyses to isolate the effect of ethnicity on base pay and incentive
12 compensation, and to measure class-wide disparity. Through that analysis I was able to reach some
13 preliminary conclusions.

14 In particular, aggregating several different groups of Kaiser workers (depending on which entities
15 they worked at and their exempt status), for the period June 17, 2016 to March 31, 2021, the total damages
16 for base pay, incentive compensation, promotions, and initial grade assignments that I calculate for all
17 Hispanic employees, based on provided assumptions, are roughly in the range of \$17-\$18 million without
18 interest. I note, that the regression analyses were not using salary grade among explanatory variables. In
19 my experience, this is frequently contested by the Defendants. In this case, if the salary grade is included
20 in the regression analyses, the pay disparity by ethnicity may dramatically change. In other words, the
21 damages' estimate depends significantly on whether the salary grade is included in the model. Consider
22 for example, base pay disparities for exempt employees in entities 1 and 8 during the 2016-2020 period.
23 When grade is not included in the analysis, Hispanic employees, on average, are paid approximately 4.2%
24 less than non-Hispanic white employees. But if salary grade is included in the model, this disparity drops
25 to virtually zero, also implying zero damages.
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1 My analyses examined pay disparities among exempt employees and non-exempt employees. Pay
2 disparities for exempt employees were generally more pronounced than for non-exempt employees. Using
3 the same example, as I already stated above, exempt Class Members were, on average, paid approximately
4 4.2% less than their non-Hispanic white counterparts in base pay in entities 1 and 8 in the 2016-2020
5 period. The corresponding disparity for non-exempt employees is just approximately 1.6%.

6
7 I certify under penalty of perjury that the foregoing is true and correct.
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9
10 Executed on April 22, 2021, in Philadelphia, Pennsylvania.
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14 _____
Alexander Vekker, PhD
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EXHIBIT A

April 2021

ALEXANDER VEKKER

Vekker Consulting, LLC
2108 Cherry St
Philadelphia, PA 19103
Voice: (215) 469-1655
Email: alex@vekker.com

EDUCATION

University of Pennsylvania, Philadelphia, PA

Ph.D., Economics, 2001

Fields of concentration: Labor Economics, Applied Econometrics

Dissertation: "Essays in Labor Economics"

Moscow State Institute of Radio Engineering,
Electronics and Automation (Technical University), Moscow, Russia

Honors Diploma (equivalent to B.S./M.S.), Applied Mathematics, 1994

EXPERIENCE

President, Vekker Consulting, LLC, Philadelphia, PA, 2012-present

Visiting/Adjunct Faculty, University of Pennsylvania, Philadelphia, PA, 2006-present

Adjunct Associate Professor/Adjunct Faculty, Department of Economics and International
Business, Drexel University, Philadelphia, PA, 2002-2006, 2013

Vice President, Econsult Corporation, Philadelphia, PA, 2003-2012

Adjunct Faculty, Peirce College, Philadelphia, PA, 2005-2006

Senior Associate, Econsult Corporation, Philadelphia, PA, 2001-2003

Instructor, University of Pennsylvania, Philadelphia, PA, 1997, 2001

HONORS AND AWARDS

University of Pennsylvania Graduate Fellowship, 1995-1999

Scholarship of the New York Association for New Americans (NYANA), 1995-1996

Scholarship of the Moscow Mayor, 1993-1994

Scholarship of the Association of Russian Colleges, 1993

PUBLISHED RESEARCH PAPERS

“Performance Pay, Performance-Support Bias, and Racial Pay Gaps among Stock Brokers,” with Janice F. Madden. *Industrial Relations*. Vol. 56 (4). October 2017.

“Prevalence of the EH1 Groucho interaction motif in the metazoan Fox family of transcriptional regulators,” with Sergey Yaklichkin, Steven Stayrook, Mitchell Lewis and Daniel S Kessler. *BMC Genomics*, Vol. 8, 201. June 2007.

“An Alternative Look at Temporary Workers, Their Choices and the Growth in Temporary Employment,” with Michael Morris. *Journal of Labor Research*. Vol. 22 (2). Spring 2001.

PRESENTATIONS

“Statistics in EEO Litigation,” EEOC Conference for Regional Attorneys and Supervisory Trial Attorneys, Baltimore, MD, 2010

“An Alternative Look at Temporary Workers, Their Choices and the Growth in Temporary Employment,” Center for Economic Studies, U.S. Census Bureau, Washington, DC, 2001

“Temporary Employment,” Bureau of Labor Statistics, Washington, DC, 2001

“Why Do People Choose Temporary Jobs?” University of Pennsylvania, Philadelphia, PA, 2001

“Why Do People Choose Temporary Jobs?” Ohio University, Athens, OH, 2001

“Is Temporary Employment Growing in the US?” Society of Economic Dynamics Annual Meeting, San Jose, Costa Rica, 2000

OTHER PROFESSIONAL ACTIVITIES

Referee: *International Journal of Manpower*, *Journal of Regional Science*

Panelist, “US-Russia Relations”, Wharton Europe Cub, University of Pennsylvania, 2018

Undergraduate thesis advising, University of Pennsylvania, 2008, 2009

Regular Economic Commentator, Radio Express, WNWR 1540 AM, Philadelphia, PA, 2008

Guest appearance at the Voice of America call-in talk show, September 2007