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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

DOMINIQUE CHAPARRO, individually, and
 on behalf of all others similarly situated,

Plaintiff,

v.

CADENCE SL WINDHAM FRESNO, LLC; a
 Delaware limited liability company; and DOES 1
 through 10, inclusive,

Defendants.

Case No.: 23CECG03064

*Assigned for all purposes to:
 Hon. Jon M. Skiles
 Dept. 503*

**DECLARATION OF BENNETT BERGER
 IN SUPPORT OF AMENDED MOTION
 FOR PRELIMINARY APPROVAL OF
 CLASS ACTION AND PAGA
 SETTLEMENT**

Date: September 30, 2025
 Time: 3:30 p.m.
 Dept.: 503

DECLARATION OF BENNETT BERGER

I, Bennett Berger, declare:

1. I make this declaration in the above-entitled action, in support of Plaintiff's amended motion for preliminary approval of class action and PAGA settlement agreement. I am over the age of 18 and have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I have been retained by Plaintiff's counsel, Wilshire Law Firm (Wilshire), in the above-entitled action as a data analysis expert to analyze a set of timekeeping and payroll records to determine the exposure for various claims including unpaid minimum wages, unpaid overtime wages, meal periods, rest periods, and related derivative and PAGA penalties.

3. I received my Bachelors of Art in Business Management Economics from the University of California, Santa Cruz in 2011. During my education I put an emphasis in finance and studied topics including statistical analysis, information systems management and corporate finance.

4. I am a partner at Berger Consulting Group, LLC (BCG) and have provided data analysis and damage exposure for over 3,000 cases. I have reviewed and analyzed data provided in numerous formats for multiple business types, including but not limited to retail, hospitals, logistics, finance, hospitality, technology, and manufacturing. My curriculum vitae is attached hereto as Exhibit 1. BCG was founded in 2013 and has been hired to provide expert analysis for more than 9,000 cases. BCG provides data and statistical analysis based on timekeeping records and other types of employee data.

5. I testified as an expert witness in the following:

1. *Turner v Charter Communications – AAA Case No. 01-22-0001-5254 – Deposition – February 16, 2023*
2. *Harper v Charter Communications – AAA Case No. 01-19-0004-5743 – Deposition – September 28, 2021*
3. *Feltzs v Cox Communications – Case No. 8:19-CV-02002-JVS-JDE – Second Deposition – September 22, 2021*

4. *Domingo v Prime Healthcare Paradise Valley – Case No. 37-2019-00023576-CU-OE-CTL – Trial – August 11, 2021*
5. *Domingo v Prime Healthcare Paradise Valley – Case No. 37-2019-00023576-CU-OE-CTL – Deposition – July 28, 2021*
6. *Ward v Sutter Valley Hospitals – Case No. 2:19-CV-00581-KJM-AC – Deposition – June 16, 2021*
7. *Sanchez v ARB, Inc. – Case No. 30-2016-00837130-CU-OE-CXC – Deposition – March 31, 2021*
8. *Feltzs v Cox Communications – Case No. 8:19-CV-02002-JVS-JDE – Deposition – March 5, 2021*
9. *Libreros v LLR, Inc dba Lularoe – Case No. RIC1714426 – Deposition – January 15, 2021*
10. *Hankey v The Home Depot USA – Case No. 2:19-cv-00413-JAM-CKD – Deposition – November 13, 2020*
11. *Mkhitarian v Bank of the West, – Case No. BC691989 – Deposition – September 17, 2020*
12. *Santos v United Parcel Services, Inc. – Case No. 3:18-cv-03177-EMC – Deposition – September 1, 2020*
13. *Cessna v Southern California Edison Company – Case No. BC689081 – Deposition – July 29, 2020*
14. *Gamboa v PAFCO - Case No. CIVDS1605273 – Deposition - July 18, 2019*
15. *Fuller v TWC - Case No. 3:17-cv-01513-DMS-AGS - Deposition - June 20, 2019*
16. *Avila v Simply Right - Case No. BC538100 - Deposition - October 16, 2018*
17. *Pineda v Lithographix - Case No. BC612372 - Deposition - February 9, 2018*
18. *Cacho v Eurostar - Case No. BC558689 - Deposition - February 17, 2017*
19. *Barajas v WHM - Case No. BC491045 - Deposition - November 28, 2016*

6. Wilshire provided a mix of Excel and PDF timekeeping and payroll records that were sent to them from Defendant. The timekeeping records covered 321 employees ranging from July 31st, 2019 through June 3rd, 2024. The payroll records covered 44 employees ranging from July 4th, 2021 through June 1st, 2024. It is my understanding this is the full dataset that was agreed upon by both Plaintiff and Defendant in order to assess the damages in this matter,

1 which happens to cover 100% of the timekeeping records for this class. It is my understanding
2 there were 18,756 workweeks worked by 321 non-exempt hourly employees from July 31st,
3 2019 through August 15th, 2024.

4 **Meal Periods**

5 7. I was asked to assess the meal break exposure for shifts worked over 5 hours with
6 one of the following occurrences: a meal break starting after the end of the 5th hour of work
7 (late), a shift without a recorded meal break (missed 1st), a meal break lasting for less than 30
8 minutes (short), or a shift lasting longer than 10 hours without a recorded 2nd meal break (missed
9 2nd). The results from my meal break analysis are as follows:

- 10 a) 1,320 instances had a late meal break out of the 69,707 meal breaks, representing
11 1.9% of all shifts with a recorded meal break.
- 12 b) 2,795 shifts had a missing 1st meal break representing 3.9% of the 72,504 shifts
13 over 5 hours.
- 14 c) 1,483 instances of a short meal break representing 2.1% of the 69,707 1st meal
15 breaks.
- 16 d) 1,279 shifts had a missing 2nd meal break for shifts over 10 hours representing
17 46.4% of the shifts over 10 hours.
- 18 e) In total, there were 6,385 instances of one or more of the above meal break
19 violations representing an 8.8% meal break violation rate of all shifts worked over
20 5 hours.
- 21 f) There are 2,016 meal premium payments made. Therefore, after premium
22 payments, there are 4,369 unpaid meal break violations representing 6% of the
23 shifts over 5 hours.

24 **Rest Periods**

25 8. I was advised by Wilshire to assume a 100% rest break violation rate for each
26 shift worked greater than or equal to 3.5 hours. Assuming a 100% violation results in 81,676
27 rest break violations.
28

Off-The-Clock (OTC)

9. I was asked to calculate the exposure assuming 1 hour per workweek of unpaid wages. The unpaid OTC hours equate to 18,756 hours.

Overtime Wages Owed at the Regular Rate of Pay

10. Wilshire also requested I analyze the payroll records to determine the amount of underpaid overtime occurred by not including the bonus payments into the regular rate of pay for purposes of paying overtime. The analysis assumes the bonuses were earned over the pay period in which they were paid. I calculated the regular rate of pay on a pay period by pay period basis and compared the overtime paid amounts with what Defendant should have been paying assuming the bonuses needed to be included in the regular rate of pay. 29.5% of employees analyzed resulted in an underpayment across 2.3% of pay periods totaling \$442 in underpaid overtime.

Waiting Time Penalties

11. Since I was provided with 100% of the timekeeping records, I used these records to determine which employees worked within the 3-year statute of limitations and didn't have a shift within 30 days of the most recent date timekeeping records were provided. If an employee didn't have time records within the last 30 days and also worked within the 3-year SOL, I assumed this employee to be a part of the Waiting Time class which totaled 184 terminated employees. Waiting Time Penalties assume each of these 184 employees are entitled to penalties and are calculated at 30 days per employee multiplied by \$16.46 hourly rate multiplied by the average of 7.4 hours per day.

Wage Statement Penalties

12. Similar to the Waiting Time penalties, I was able to utilize the timekeeping records to determinate how many employees and pay periods were worked within the 1-year statute of limitations. Wage Statement Penalties assume each of the 170 employees and 3,950 pay periods in the 1-year statute of limitations have a violation and therefore are entitled to penalties. Wage Statement Penalties are calculated at \$50 for the initial penalty and \$100 for

1 each subsequent penalty with a maximum of \$4,000 per employee.

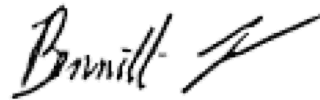
2 **PAGA Penalties**

3 13. I have been asked to assess the potential PAGA penalties assuming a \$100 penalty
4 amount for each pay period in which each predicate violation occurred. Meal periods were based
5 on 30% of pay periods in the records with a violation. Rest periods were based on 99.6% of pay
6 periods in the records with a violation. Unpaid overtime was based on 2.4% of pay periods in
7 the records with a violation. Unpaid wages and Wage Statement penalties assume 100% of
8 PAGA pay periods had a violation, and PAGA for Waiting Time penalties assume \$100 per
9 employee terminated in the PAGA period.

10 14. I may be asked to develop additional analysis, observations, and queries in
11 connection with any data counsel for Plaintiff provides after the date this declaration is signed.
12 If requested, I could conduct the same or similar analyses as described in this declaration. At
13 that time, if appropriate, I can prepare a supplement to this declaration.

14 I declare under penalty of perjury of the laws of United States of America in the state of
15 California that the foregoing is true and correct.

16 Executed on September 5, 2025 in Frisco, Texas.

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18 

19 _____
20 Bennett Berger
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Exhibit 1

Bennett Berger



6121 Brentway Rd. Frisco, TX 75034 • Phone: 818-635-6613 • E-Mail: BergerBennett@gmail.com

Experience

Partner / Senior Data Analyst - Berger Consulting Group

June 2013 - Current

- Analyze small and large data sets for wage and hour class action lawsuits. Review data for patterns; group data using Pivot Tables and other complex equations in Excel to help identify relationships between sets of data.
- Use Excel extensively to write equations and macros to aid in quantitative damage models. Worked on over 3,000 wage and hour cases since 2013 in industries such as retail, healthcare, logistics, finance, hospitality, technology, and manufacturing.
- Perform data conversion using multiple commercial OCR software programs to transform small to large volumes of PDF images into searchable text format.
- Write case analysis summaries, detailed reports and declarations explaining the data and exposure models.
- Provide expert testimony of my findings.

Co-Founder / President - SD3D

January 2013 - 2023

- Extensive 3D printing knowledge of mechanics and materials as well as 3D design and 3D scanning. Robust knowledge of 3D printing file preparation software.
- Build Excel spreadsheets for cost analysis of 3D printing versus other manufacturing methods.
- Design the sales and marketing material for the business, along with developing the overall brand and sales strategies.
- Responsible for SD3D's finances, financial projections and investor relations.

Account Executive - Corporate Strategies Inc.

December 2011 - January 2013

- Market and analyze employee benefits for small group clients.
- Compose spreadsheets comparing current verses renewal and proposed insurance plans.
- Execute daily HR tasks for groups- enrollments, terminations, coverage changes, order ID cards, etc.
- Communicate to business owners as well as employees about their plan benefits and cost comparisons.
- Prepare proposals for individual health insurance clients.
- Organize current life insurance summaries and formulate new products ideas and changes.

Education

University of California, Santa Cruz

September 2007 - March 2011

Bachelors of Arts in Business Management Economics

Computer Skills

-Excel, PowerPoint, Word, Outlook, Omnipage PDF converter, ABBYY FineReader PDF converter, Adobe Acrobat Pro

Expert Testimony

Berger Consulting Group

- Turner v Charter Communications - AAA Case No. 01-22-0001-5254 - Deposition - February 16, 2023
- Harper v Charter Communications - AAA Case No. 01-19-0004-5743 - Deposition - September 28, 2021
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- Pineda v Lithographix - Case No. BC612372 - Deposition - February 9, 2018
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