Barbara DuVan-Clarke (State Bar No. 259268)
BDC@blackstonepc.com
Danielle L. GruppChang (State Bar No. 313881)
dgruppchang@blackstonepc.com
P.J. Van Ert (State Bar No. 234858)
pjvanert@blackstonepc.com
Alexandra Rose (State Bar No. 329407)
arose@blackstonepc.com
Lizeth Marin (State Bar No. 360465)
lmarin@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

Attorneys for Plaintiff BLANCA OLIVAREZ, individually, and on behalf of Aggrieved Employees pursuant to the California Private Attorneys General Act

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

BLANCA OLIVAREZ, individually, and on behalf of Aggrieved Employees pursuant to the California Private Attorneys General Act,

Plaintiff,

vs.

COMERICA MANAGEMENT CO., INC., a Michigan corporation; FIFTH THIRD BANK, N.A., an Ohio corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. CGC-24-613901

Honorable Jeffrey S. Ross
Department 613

DECLARATION OF BENNETT BERGER IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

Date:	December 18, 2026
Time:	9:00 a.m.
Department:	613
Complaint Filed:	April 12, 2024
FAC Filed:	November 10, 2026
Trial Date:	Not Set

DECLARATION OF BENNETT BERGER

I, Bennett Berger, declare:

1. I make this declaration in the above-entitled action, in support of Plaintiff's motion for approval of 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, Blackstone Law, APC (Blackstone), 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, reimbursements, and related derivative 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 10,000 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. Blackstone provided the seven Excel files containing time and pay records for 149 employees ranging from September 6, 2022 through August 4, 2025. It is my understanding this is the full dataset that was agreed upon by both Plaintiff and Defendant in order to assess the penalties in this matter and represents approximately 15% of the total aggrieved employee count. The records contained 5,865 total pay periods and the analysis extrapolates to 42,257 pay periods through December 3, 2025.

7. The timekeeping records were analyzed for shift length distributions as well as meal break violations. The records showed 1.4% of pay periods had a meal break violation without the proper amount of meal break premiums paid resulting in 605 pay periods affected, or $60,500 in PAGA

penalties related to meal breaks.

8. Rest breaks were recorded in 1.2% of the shifts analyzed, which in turn results in many missed 1st, 2nd, and 3rd rest breaks. The data showed 98.9% of pay periods had a missing rest break affecting 41,810 pay periods (resulting in PAGA penalties of $4,181,000 related to rest breaks).

9. Based on the information provided to me regarding Plaintiff's experiences working for Defendant and their observations and understandings of Defendant's practices and policies that pertained to the employees, I calculated PAGA penalties from unpaid off-the-clock work at 100%, or 42,257 pay periods (resulting in PAGA penalties of $4,225,700 related to unpaid wages).

10. I was advised that Plaintiff's claim for unreimbursed business expenses arose out of Plaintiff and other employees' need to use personal cell phones, mileage, and purchasing office supplies for work related purposes without fully being reimbursed. Based thereon, I was asked to calculate PAGA penalties for all 42,257 pay periods (resulting in PAGA penalties of $4,225,700 related to unreimbursed business expenses).

11. The paystubs were analyzed to calculate underpaid overtime wages, underpaid sick pay, and underpaid meal premiums due to regular rate calculations caused by various bonuses paid. Overtime affects 15,439 pay periods, sick pay affects 6,876 pay periods, and meal premiums affect 8,098 pay periods. This totals to 30,413 pay periods affected, or $3,041,300 in PAGA penalties related to the regular rate of pay.

12. Derivative claims are assumed to affect 100% of pay periods, or 42,257 pay periods. PAGA penalties tied to derivative claims result in penalties of $4,225,700.

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

I declare under penalty of perjury of the laws of United States of America in the state of California that the foregoing is true and correct. Executed on November 9, 2026 in Frisco, Texas.



Bennett Berger

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
- Feltzs v Cox Communications – Case No. 8:19-CV-02002-JVS-JDE – Second Deposition – September 22, 2021
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- Ward v Sutter Valley Hospitals – Case No. 2:19-CV-00581-KJM-AC – Deposition – June 16, 2021
- Sanchez v ARB, Inc. – Case No. 30-2016-00837130-CU-OE-CXC – Deposition – March 31, 2021
- Feltzs v Cox Communications – Case No. 8:19-CV-02002-JVS-JDE – Deposition – March 5, 2021
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- Hankey v The Home Depot USA – Case No. 2:19-cv-00413-JAM-CKD – Deposition – November 13, 2020
- Mkhitarian v Bank of the West, – Case No. BC691989 – Deposition – September 17, 2020
- Santos v United Parcel Services, Inc. – Case No. 3:18-cv-03177-EMC – Deposition – September 1, 2020
- Cessna v Southern California Edison Company – Case No. BC689081 – Deposition – July 29, 2020
- Gamboa v PAFCO - Case No. CIVDS1605273 – Deposition - July 18, 2019
- Fuller v TWC - Case No. 3:17-cv-01513-DMS-AGS - Deposition - June 20, 2019
- Avila v Simply Right - Case No. BC538100 - Deposition - October 16, 2018
- Pineda v Lithographix - Case No. BC612372 - Deposition - February 9, 2018
- Cacho v Eurostar - Case No. BC558689 - Deposition - February 17, 2017
- Barajas v WHM - Case No. BC491045 - Deposition - November 28, 2016