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Attorneys for Plaintiff Connor Brown and the Class

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

CONNOR BROWN, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act,

Plaintiff,

vs.

BI-RITE MANAGEMENT SERVICES LLC,
a California limited liability company; BI-
RITE MARKET, INC. dba BI-RITE
FAMILY OF BUSINESSES, a California
corporation; BI-RITE CREAMERY, INC., a
California corporation; BIRITE CATERING,
LLC dba BI-RITE CATERING &
COMMISSARY KITCHEN, a California
limited liability company; BI-RITE DIVIS,
INC., a California corporation; and DOES 1
through 25, inclusive,

Defendants.

Case No.: CGC-24-611385

Honorable Jeffrey S.
Ross Department 613

**DECLARATION OF BENNETT BERGER
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: March 12, 2026
Time: 9:00 a.m.
Dept: 613

Complaint Filed: January 3, 2024
FAC Filed: February 27, 2024
Trial Date: Not Set

1 **DECLARATION OF BENNETT BERGER**

2 I, Bennett Berger, declare:

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

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

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

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

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

22 1. *Turner v Charter Communications – AAA Case No. 01-22-0001-5254 – Deposition –*
23 *February 16, 2023*

24 2. *Harper v Charter Communications – AAA Case No. 01-19-0004-5743 – Deposition –*
25 *September 28, 2021*

26 3. *Feltzs v Cox Communications – Case No. 8:19-CV-02002-JVS-JDE – Second*
27 *Deposition – September 22, 2021*

28 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 7 Excel files containing timekeeping records, payroll records, and an employee class list with hire and termination dates. The timekeeping records covered 687 employees ranging from January 3, 2020 through August 3, 2024. The payroll records covered 661 employees ranging from January 2020 through July 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 and represents 100% of the class. The records contained 49,025 total workweeks and Defendant represented

1 that there are a total of 54,431 workweeks through September 11, 2024.

2 7. The timekeeping records were analyzed for shift length distributions as well as meal
3 break violations. The records showed a 41.5% meal break violation rate resulting in an exposure of
4 \$1,969,367 after accounting for meal premium payments.

5 8. Given that rest breaks are not required to be recorded by an employer, and based on the
6 information regarding Defendant's alleged rest break practices, I was advised to calculate a 100% rest
7 break violation rate for shifts greater than or equal to 3.5 hours (resulting in exposure of \$4,901,762).

8 9. Based on the information provided to me regarding Plaintiff's experiences working for
9 Defendant and their observations and understandings of Defendant's practices and policies that
10 pertained to the employees, I calculated an estimated one hour of unpaid off-the-clock work per
11 workweek (resulting in exposure of \$1,125,328).

12 10. I was advised that Plaintiff's claim for unreimbursed business expenses arose out of
13 Plaintiff and other employees' need to purchase personal protective equipment for work related
14 purposes without receiving any amount of reimbursement. Based thereon, I was asked to calculate \$30
15 per month in unreimbursed business expenses (resulting in exposure of \$370,890).

16 11. Blackstone requested I analyze the payroll records to determine the amount of underpaid
17 overtime occurred by not including the bonus payments into the regular rate of pay for purposes of
18 paying overtime. The analysis assumes the Bonus and Ref Bonus payments were earned over the period
19 in which they were paid and assumes the Appreciation Bonuses were earned over the prior 6-months
20 in which they were paid. I calculated the regular rate of pay on a pay period by pay period basis and
21 compared the overtime paid amounts with what Defendant should have been paying assuming the
22 bonus payments needed to be included in the overtime calculation at 1.5x the regular rate of pay. In
23 this matter, the total overtime exposure was estimated at \$10,129.

24 12. It's estimated there are 365 former employees in the 3-year class period. Waiting time
25 penalties assume each of these 365 employees are entitled to penalties and are calculated at 30 days
26 per employee multiplied by the average hourly base rate of \$22.45 multiplied by 7.5 hours per day.
27 This results in \$1,845,029 of exposure for waiting time penalties.

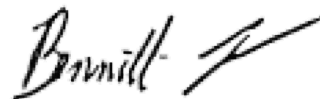
28 13. Wage statement penalties assume each of the 392 employees and 9,290 pay periods in

1 the 1-year statute of limitations have a violation and therefore are entitled to penalties. Wage statement
2 penalties are calculated at \$50 for the initial penalty and \$100 for each subsequent penalty with a
3 maximum of \$4,000 per employee and result in an exposure of \$909,400.

4 14. The number of aggrieved employees and pay periods in the PAGA period have been
5 extrapolated to mediation to estimate 9,516 pay periods in the PAGA period worked by 394 aggrieved
6 employees. Assuming 1 violation per pay period and assessing a \$100 penalty amount results in
7 \$951,600 in PAGA penalties.

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

12 I declare under penalty of perjury of the laws of United States of America in the state of
13 California that the foregoing is true and correct. Executed on January 21, 2026 in Frisco, Texas.

14
15 

16 _____
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
- Domingo v Prime Healthcare Paradise Valley - Case No. 37-2019-00023576-CU-OE-CTL - Trial - August 11, 2021
- Domingo v Prime Healthcare Paradise Valley - Case No. 37-2019-00023576-CU-OE-CTL - Deposition - July 28, 2021
- 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
- Libreros v LLR, Inc dba Lularoe - Case No. RIC1714426 - Deposition - January 15, 2021
- 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
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- 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