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Attorneys for Plaintiffs RICK PEREZ and SAM TORRES, individually
and on behalf of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

RICK PEREZ and SAM TORRES,
individually and on behalf of others similarly
situated,

Plaintiffs,

vs.

ROSENBALM ROCKERY, INC., and DOES
1 through 25, inclusive,

Defendants.

Case No. 24CECG00952
[Consolidated with Case No. 24CECG01868]

Honorable Lisa M. Gamoian
Department 403

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

Date: February 3, 2026
Time: 3:27 p.m.
Dept.: 403

Complaint Filed: March 4, 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 Plaintiffs' motion for
4 preliminary approval of class action settlement agreement. I am over the age of 18 and have personal
5 knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify
6 competently to such facts under oath.

7 2. I have been retained by Plaintiffs' 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 14 Excel timekeeping files and the 24 payroll files that were sent to them from Defendant. The timekeeping records covered 14 employees ranging from March 2020 through August 2024. The payroll records covered 13 employees ranging from March 2021 through April 2025. 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.

7. Defendant provided the total workweeks (8,619) and class members (122) as of

1 4/30/2025 which were further extrapolated through mediation. I analyzed all the Excel timekeeping
2 and payroll records that were provided and extrapolated to the 8,907 workweeks.

3 8. The timekeeping records were analyzed for shift length distributions as well as meal
4 break violations. The records showed a 2.3% meal break violation rate and the payroll records included
5 meal break premium payments for 30.7% of these violations. This resulted in a 1.5% violation rate and
6 an exposure of \$11,852 after premiums.

7 9. Given that rest breaks are not required to be recorded by an employer, and based on the
8 information regarding Defendant's alleged rest break practices, I was advised to calculate a 100% rest
9 break violation rate for shifts greater than or equal to 3.5 hours (resulting in exposure of \$793,541).

10 10. Based on the information provided to me regarding Plaintiffs' experiences working for
11 Defendant and their observations and understandings of Defendant's practices and policies that
12 pertained to the employees, I calculated an estimated one hour of unpaid off-the-clock work per
13 workweek (resulting in exposure of \$244,379).

14 11. I was advised that Plaintiffs' claim for unreimbursed business expenses arose out of
15 Plaintiffs' and other employees' purchase of steel toed boots and usage of personal cell phones in the
16 execution of their business duties without receiving any amount of reimbursement. Based thereon, I
17 was asked to calculate \$30 per month in unreimbursed business expenses (resulting in exposure of
18 \$69,090).

19 12. Blackstone requested I analyze the payroll records to determine the amount of underpaid
20 overtime occurred by not including the bonus payments into the regular rate of pay for purposes of
21 paying overtime. The analysis assumes the bonus payments were earned over the period in which they
22 were paid. I calculated the regular rate of pay on a pay period by pay period basis and compared the
23 overtime paid amounts with what Defendant should have been paying assuming the bonus payments
24 needed to be included in the overtime calculation at 1.5x the regular rate of pay. In this matter, the total
25 overtime exposure was estimated at \$11,481. 15.4% of employees analyzed resulted in an
26 underpayment across 2.1% of pay periods.

27 13. It's estimated there are 67 former employees in the 3-year class period. Waiting time
28

1 penalties assume each of these 67 employees are entitled to penalties and are calculated at 30 days per
2 employee multiplied by the average hourly base rate of \$21.16 multiplied by 7.8 hours per day. This
3 results in \$331,711 of exposure for waiting time penalties.

4 14. Wage statement penalties assume each of the 79 employees and 4,493 pay periods in
5 the 1-year statute of limitations have a violation and therefore are entitled to penalties. Wage statement
6 penalties are calculated at \$50 for the initial penalty and \$100 for each subsequent penalty with a
7 maximum of \$4,000 per employee and result in an exposure of \$316,000.

8 15. Defendant provided the number of aggrieved employees (74) and pay periods (3,909)
9 in the PAGA period. These have been extrapolated to mediation to estimate 4,197 pay periods in the
10 PAGA period. Assuming 1 violation per pay period and assessing a \$100 penalty amount results in
11 \$419,700 in PAGA penalties.

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

16 I declare under penalty of perjury of the laws of United States of America in the state of
17 California that the foregoing is true and correct. Executed on January 8, 2026 in Frisco, Texas.

18
19 

20 _____
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
- Gamboa v PAFCO - Case No. CIVDS1605273 - Deposition - July 18, 2019
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- 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